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No. 2688

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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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RALPH K. BLAIR and THOMAS ADDIS,  
Plaintiffs in Error,

vs.

THE UNITED STATES OF AMERICA,  
Defendant in Error.

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Transcript of Record.

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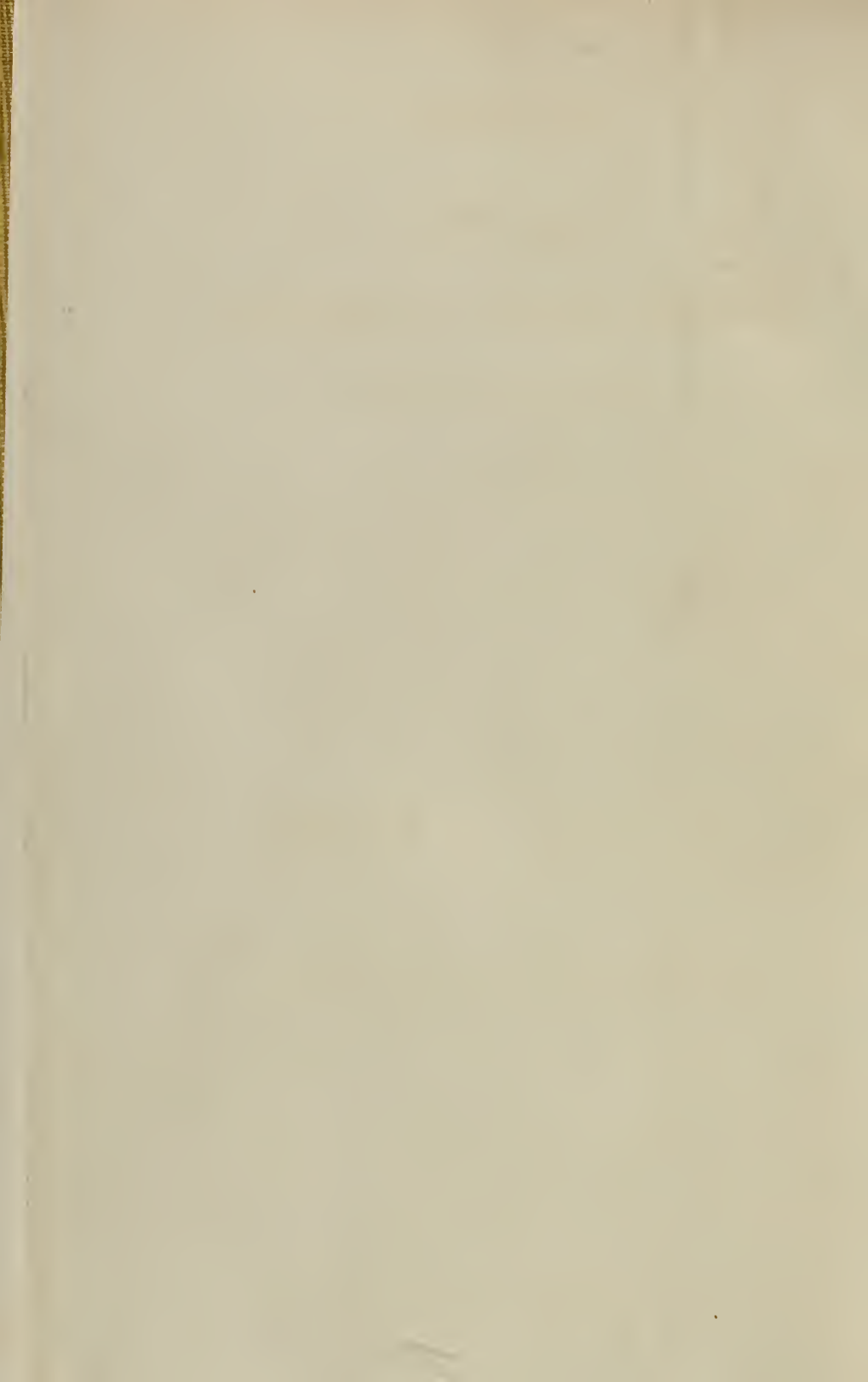
Upon Writ of Error to the United States District Court of the  
Northern District of California, First Division.

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Filed

DEC 20 1915

F. D. Monckton,  
Clerk.



No. 2688

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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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DDIS,  
in Error,

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in Error.

Record.

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Upon Writ of Error to the United States District Court of the  
Northern District of California, First Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*In the District Court of the United States, in and for  
the Northern District of California, First Di-  
vision.*

No. 5750.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Praeipice for Transcript of Record.**

To the Clerk of the Above-entitled Court:

You will please prepare transcript of the record in this cause to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, under the writ of error heretofore sued out and perfected to said Court, and include in said transcript the following pleadings, proceedings and papers on file, to wit:

1. Indictment.
2. Motion to Quash Indictment.
3. Demurrer to Indictment.
4. The Agreed Statement of Facts and the Exhibits Mentioned Therein.
5. Charge of the Court to the Jury.
6. Verdict of the Jury.
7. Motion for a New Trial.
8. Motion in Arrest of Judgment.

9. Judgment on Verdict.

10. Bill of Exceptions on Behalf of Plaintiffs in Error.

11. Minutes of the Court for the following dates, to wit: August 16, 1915; August 21, 1915; October 18, 1915; October 21, 1915; October 27, 1915; October 30, 1915. [1\*]

12. Notice of Petition for Writ of Error and Supersedeas.

13. Petition for Writ of Error and Supersedeas.

14. Assignment of Errors.

15. Supersedeas Bonds.

16. Order Allowing Writ of Error.

17. Writ of Error.

18. Citation.

19. This Praecepte.

Said transcript to be prepared as required by law and the rules of this Court, and the rules of the United States Circuit Court of Appeals for the Ninth Circuit and filed in the office of the clerk of the United States Circuit Court of Appeals, before the 29th day of November, A. D. 1915.

Dated San Francisco, California, October 30, A. D. 1915.

RALPH K. BLAIR,

THOMAS ADDIS,

Plaintiffs in Error.

By J. J. DUNNE,

ALLEN G. WRIGHT,

HENRY G. W. DINKELSPIEL,

JOHN R. JONES,

Attorneys for Plaintiffs in Error.

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\*Page number appearing at foot of page of original certified Record.

[Endorsed]: Filed Nov. 15, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

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*In the District Court of the United States, in and for  
the Northern District of California, First Di-  
vision.*

**Indictment.**

At a stated term of said court begun and holden at the City and County of San Francisco, within and for the State and Northern District of California, on the first Monday of March, in the year of our Lord one thousand nine hundred and fifteen.

The Grand Jurors of the United States of America, within and for the State and District aforesaid, on their oaths present: THAT

Blair-Murdock Company is, and was, at all of the times hereinafter mentioned, a corporation duly created, organized and existing under and by virtue of the laws of the State of California, and having its principal place of business at the City and County of San Francisco, State and Northern District of California, and within the jurisdiction of this Court;

And the Grand Jurors aforesaid, on their oaths, aforesaid, do further present that BLAIR-MURDOCK COMPANY, RALPH K. BLAIR, THOMAS ADDIS, HARRY G. LANE, KENNETH CROFT and C. D. LAWRENCE, each late of the State and Northern District of California, hereinafter called the defendants, heretofore, to wit, on or about the fifteenth day of March, in the year of our Lord one thousand nine hundred and fifteen, at San Francisco, in the State and District aforesaid, and within the jurisdic-

*In the District Court of the United States, Southern  
District of California, Southern Division.*

Plaintiff,

ELIZABETH KNUDSEN,

vs.

DOMESTIC UTILITIES MANUFACTURING  
COMPANY, a Corporation, EDWIN R.  
CROOKER, HARRY L. CROOKER, LOU-  
ISE E. CROOKER, W. P. ELLIS and F. W.  
STERLING,

Defendants.

The President of the United States of America,  
to Elizabeth Knudsen, Defendant in Error, and  
to Robert L. Hubbard, Her Attorney, Greeting:

You are hereby cited and admonished to be and  
appear in the United States Circuit Court of Ap-  
peals for the Ninth Circuit, at the City of San Fran-  
cisco, State of California, on the 9th day of October,  
1915, pursuant to writ of error filed in the clerk's  
office of the United States District Court for the  
Southern District of California, Southern Division,  
sitting at Los Angeles, California, wherein Edwin  
R. Crooker, Louise E. Crooker, W. P. Ellis and F.  
W. Sterling are plaintiffs in error and you are de-  
fendant in error, to show cause, if any there be, why  
the decision and order denying the motion of said  
plaintiffs in error, and each of them, to vacate an or-  
der of arrest, as in said writ of error mentioned,  
should not be corrected and why speedy justice  
should not be done the parties in that behalf.

WITNESS the Honorable BENJAMIN F. BLEDSOE, Judge of the United States District Court, this 10th day of September, 1915.

BLEDSOE,  
United States District Judge. [8]

[Endorsed]: Civ. No. 363. In the United States District Court, in and for the Southern District of California, Southern Division. Elizabeth Knudsen, Plaintiff, vs. Domestic Utilities Manufacturing Company, a Corporation, Edwin R. Crooker, Harry L. Crooker, Louise E. Crooker, W. P. Ellis and F. W. Sterling. Citation in Error. Filed Sep. 11 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk.

Received copy of the within Citation this 11th day of Sept. 1915.

ROBERT L. HUBBARD.

Attorney for Pltf.

By D. E. BERGMAN. [9]

Forty Dollars (\$240) which he deposited to his account in the Bank of California, at San Francisco, aforesaid.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said [5] conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR on or about May 18th, 1915, at San Francisco, in the State and Northern District of California, received from A. Carnegie Ross the sum of Nine Hundred and Sixty Dollars (\$960) which he deposited to his account in the Bank of California, at San Francisco aforesaid.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on or about June 8th, 1915, at San Francisco in the State and Northern District of California, received from A. Carnegie Ross the sum of Two Thousand Four Hundred and Nine Dollars and fifty cents (\$2,409.50) which he deposited to the credit of Blair-Murdock Co., in the Bank of California, at San Francisco aforesaid.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on or about June 15th, 1915, at San Francisco in the

State and Northern District of California, received from A. Carnegie Ross the sum of Two Thousand One Hundred and Fifteen Dollars (\$2,115) which he deposited to the credit of Blair-Murdock Co., in the Bank of California, at San Francisco aforesaid.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and [6] to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on April 7th, 1915, paid to Thomas Cook & Sons, at San Francisco in the State and Northern District of California. the sum of \$452.20 as purchase price of seven tourist's tickets over the Southern Pacific Railroad, Union Pacific Railroad, Chicago, Milwaukee & St. Paul, and Pennsylvania Railroads, from San Francisco, to New York City in the State of New York.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on or about June 8th, 1915, at San Francisco in the State and Northern District of California, paid to Thomas Cook & Sons, the sum of One Thousand Nine Hundred and Thirty-eight Dollars (\$1,938) as purchase price for thirty tourist's tickets over the Southern Pacific Railroad, Union Pacific Railroad, Chicago, Milwaukee & St. Paul, Michigan Central and New York Central Railroads, from San Francisco aforesaid to New York City in the State of New York.

object thereof, the said defendant RALPH K. BLAIR, on or about June 15th, 1915, at San Francisco in the State and Northern District of California, paid to Thomas Cook & Sons, the sum of One Thousand Eight Hundred and Twenty Dollars and Eighty Cents (\$1,820.80) for purchase price of twenty-seven tourist's tickets and one first class ticket over the Southern Pacific Railroad, [7] Union Pacific Railroad, Chicago, Milwaukee & St. Paul, Michigan Central and New York Central Railroads, from San Francisco aforesaid, to New York City in the State of New York.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on June 2d, 1915, at San Francisco, in the State and Northern District of California, by check No. 552 on the Bank of California, paid to the Southern Pacific Railroad Company, the sum of Four Hundred and Twenty-five Dollars and Forty Cents, (\$425.40).

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant KENNETH CROFT, on June 19th, 1915, at Chicago, in the State of Illinois,



Party twenty-three strong proceeded New York three P. M. Following later.

(Signed) CROFT."

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant KENNETH CROFT, on June 19th, 1915, at Chicago, in the State of Illinois, sent to defendant RALPH K. BLAIR, care of the British Friendly Association, 68 Fremont Street, [8] San Francisco, California, the following telegram, to wit:

"Held up here by federal authorities for investigation. Need further funds for parties sustenance. Wire hundred room eight five nine Federal Building.

(Signed) KENNETH CROFT."

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant THOMAS ADDIS, on June 14th, 1915, at 68 Fremont Street in the City and County of San Francisco, State and Northern District of California, made a physical examination of William Stables, Frank G. Cook, Robert Johnson and William Smith.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that on or about June 14th, 1915, at San Francisco, in the State and Northern District of California, defendant HARRY G. LANE engaged lodging apartments from one Mrs. C. Lee at 735A Harrison Street, San Francisco, aforesaid, for about twenty men, among whom were Richard C. Lovelace, Arthur Detillieu, Bert F. Dowd.

AGAINST the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided. [9]

#### SECOND COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present: THAT

Blair-Murdock Company is, and was, at all of the times hereinafter mentioned, a corporation, duly created, organized and existing under and by virtue of the laws of the State of California, and having its principal place of business at the City and County of San Francisco, State and Northern District of California, and within the jurisdiction of this Court;

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that BLAIR-MURDOCK COMPANY, RALPH K. BLAIR, THOMAS ADDIS, HARRY G. LANE, KENNETH CROFT and C. D. LAWRENCE, each late of the State and Northern District of California, hereinafter called the defendants, heretofore, to wit, on or about the fifteenth day of March, in the year of our Lord, one thousand nine hundred and fifteen, at San Francisco, in the State and District aforesaid, and within the

jurisdiction of this Court, did wilfully, unlawfully, wickedly, corruptly and feloniously conspire, combine, confederate and agree together and with divers other persons whose names are to the Grand Jurors aforesaid, unknown, to commit certain offenses against the United States, that is to say: They, the said defendants, at the time and place aforesaid, knowingly wilfully, unlawfully, wickedly, corruptly and feloniously did conspire, combine, confederate and agree together and with said divers other persons whose names are to the Grand Jurors aforesaid, unknown, to wilfully, unlawfully and knowingly hire and retain [10] within the territory of the United States, certain persons, to wit, Harry Gorman, Hugh McCubbin, Harry Albert, Robert Johnson, W. Burkett, James Smith, William Stables, James B. Sullivan, James T. Wilson, Harry Boyd, Edward Qualthough, Joseph McDonald, Paul O. Wilkins, W. Jolly, J. D. Steen, E. Purtell, Wm. V. Granney, R. O. Sage, Rudolph Duncan, J. L. Stanley, Frank G. Cook, F. Bond, Claude R. Hill, Patrick Casey, Patrick Devlin and divers other persons whose names are to the Grand Jurors aforesaid, unknown, to go beyond the limits and jurisdiction of the United States, with the intent on the part of the persons hereinabove mentioned and divers other persons whose names are to the Grand Jurors aforesaid, unknown, to enlist and enter in the service of a foreign prince, to wit, the King of Great Britain and Ireland, as marines and seamen on board a vessel or vessels of war, and with the intent on the part of the said defendants that the said persons hereinabove mentioned, and divers other

fective, damaged and unsalable clothes-washers, and clothes-washers that were utterly worthless and unfit for sale or for use or for any purpose whatever, and in insufficient quantities and less than were ordered and paid for by plaintiff to said defendant corporation; that the defendant, Domestic Utilities Manufacturing Company likewise failed, neglected and refused to deliver to plaintiff, and refused to [15] ship to her order, as required by the terms of said contract more than or about 30,000 of said vacuum clothes-washers which had been sold by plaintiff to members of the public, customers of plaintiff; that she sold in all, more than 36,000 of said washers; that the defendant corporation never did deliver to plaintiff more than 4,000 of said washers. Plaintiff further says that the defendant corporation during about one year from and after the said 7th day of July, 1911, continually and repeatedly failed to deliver to plaintiff or to ship to her order, clothes-washers sold by her, and until she had sold and had become obligated to deliver to her purchasers about 7,000 of said washers, and that, in order to carry out her agreements and contracts with her said customers and purchasers, to avoid failure upon her part to perform her every agreement with her said purchasers, and to act in perfect good faith with said purchasers, she was compelled to and did establish manufactories and was compelled to and did manufacture washers with which to fulfill her said agreements; that during said time of about one year, above mentioned, the defendant corporation by and through its officers and members, the individual de-

defendants herein pretended to be unable to manufacture said washers fast enough to meet the demands of the public, whereas, said corporation was not trying to manufacture said washers for said trade or to meet the demands of the public or to comply with its said contract with this plaintiff and other contract holders holding contracts with said defendant corporation of the same nature as the contract held by plaintiff, and in that regard alleges:

That the defendants Edwin R. Crooker, Harry L. Crooker, Louise E. Crooker, W. P. Ellis and F. W. Sterling, co-operating one with the other and confederating together, conspired to [16] deceive, to cheat and swindle this plaintiff and others by means of and through the agency of said papers, circulars, documents, booklets, prospectus and letters and their contents so written, printed and publicly circulated by the defendants as hereinabove alleged, and by means of the contents of said contract of July 7, 1911, to cheat, to defraud, and to swindle this plaintiff, and to that end represented, stated, set forth and pretended in all said documents, and by the contents thereof lead readers thereof to believe that said Domestic Utilities Manufacturing Company was actually and really engaged in the manufacture and sale, at wholesale and retail, of vacuum clothes-washers, ovens and flues, to its agents and their customers and the public; that said statements and pretenses and representations in all said documents and in said contract were false, and were a sham and deceit, and worked a fraud upon plaintiff, in this, that defendant corporation was not, nor had

or about June 15th, 1915, at San Francisco, in the State and Northern District of California, received from A. Carnegie Ross the sum of Two Thousand One Hundred and Fifteen Dollars (\$2,115) which he deposited to the credit of Blair-Murdock Company in the Bank of California, at San Francisco aforesaid.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on April 7th, 1915, paid to Thomas Cook & Sons, at San Francisco, in the State and Northern District of California, the sum of \$452.20 as purchase price of seven tourist's tickets over the Southern Pacific Railroad, Union Pacific Railroad, Chicago, Milwaukee & St. Paul, and Pennsylvania Railroads, from San Francisco aforesaid, to New York City in the State of New York.

And the Grand Jurors aforesaid, on their oaths [13] aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on or about June 8th, 1915, at San Francisco, in the State and Northern District of California, paid to Thomas Cook & Sons, the sum of One Thousand Nine Hundred and Thirty-eight Dollars (\$1,938) as purchase price of thirty tourist's tickets over the Southern Pacific Railroad, Union Pacific Railroad, Chicago, Milwaukee & St. Paul, Michigan Central and

New York Central Railroads, from San Francisco aforesaid, to New York City in the State of New York.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant RALPH K. BLAIR, on or about une 15th, 1915, at San Francisco, in the State and Northern District of California, paid to Thomas Cook & Sons, the sum of One Thousand Eight Hundred and Twenty Dollars and Eighty Cents (\$1,820.80) for purchase price of twenty-seven tourist's tickets and one first class ticket over the Southern Pacific Railroad, Union Pacific Railroad, Chicago, Milwaukee & St. Paul, Michigan Central and New York Central Railroads, from San Francisco aforesaid, to New York City in the State of New York.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said [14] defendant RALPH K. BLAIR, on June 2d, 1915, at San Francisco, in the State and Northern District of California, by check No. 552 on the Bank of California, paid to the Southern Pacific Railroad Company, the sum of Four Hundred and Twenty-five Dollars and Forty Cents (\$425.40).

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of

said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant KENNETH CROFT, on June 19th, 1915, at Chicago, in the State of Illinois, sent to defendant Ralph K. Blair, care of the British Friendly Association, 68 Fremont Street, San Francisco, California, the following telegram, to wit:

“Party twenty-three strong proceeded New York three P. M. Following later.

(Signed) CROFT.”

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said defendant KENNETH CROFT, on June 19th, 1915, at Chicago, in the State of Illinois, sent to defendant Ralph K. Blair, care of the British Friendly Association, 68 Fremont Street, San Francisco, California, the following telegram, to wit:

“Held up here by federal authorities for investigation. Need further funds for parties sustenance. Wire hundred room eight five nine Federal Building.

(Signed) KENNETH CROFT.”

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that in furtherance of said conspiracy, combination, confederation and agreement, and to effect and accomplish the object thereof, the said [15] defendant THOMAS ADDIS, on June 14th, 1915, at 68 Fremont Street, in the City and County of San Francisco, State and Northern District of California, made a physical ex-



amination of William Stables, Frank G. Cook, Robert Johnson and William Smith.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that on or about June 14th, 1915, at San Francisco, in the State and Northern District of California, defendant HARRY G. LANE engaged lodging apartments from one Mrs. C. Lee at 735A Harrison Street, San Francisco aforesaid, for about twenty men, among whom were Richard C. Lovelace, Arthur Detillieu, and Bert F. Dowd.

AGAINST the peace and dignity of the United States of America and Contrary to the form of the statute of the said United States of America in such case made and provided.

JNO. W. PRESTON,

United States Attorney. [16]

NAMES OF WITNESSES APPEARING BEFORE  
THE GRAND JURY.

Ernest Frederick Rixon.	Frank G. Cook.
William Stables.	H. G. Lane.
William Smith.	Mrs. C. Lee.
Robert Johnson.	Richard C. Lovelace.
Henry Smith.	Arthur Detillieu.
R. H. Sage.	Harold F. Vanderhurst.
Bert F. Dowd.	G. W. B. Heathcote.
C. D. Lawrence.	Wm. C. Maurier.

[Endorsed]: A true bill. W. N. Concanon, Foreman Grand Jury.

Presented in open court and filed July 8th, 1915.  
W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [17]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 16th day of August, in the year of our Lord, one thousand nine hundred and fifteen. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 5750.

UNITED STATES OF AMERICA

vs.

BLAIR MURDOCK CO. et al.

**Arraignment of Defendants, etc.**

This case came on regularly this day for the arraignment of defendants Blair-Murdock Company, Ralph K. Blair, Thomas Addis, and C. D. Lawrence. Defendants Blair, Addis and Lawrence were present in court with their attorneys, John J. Jones, Esq., and J. J. Dunne, Esq., and defendant Blair-Murdock Company was present by and through its attorney, J. J. Dunne, Esq. John W. Preston, Esq., was present as United States Attorney. Each of said defendants were duly arraigned upon the Indictment herein against them, stated their true names to be as contained therein, waived reading of the same and thereupon attorneys for said defendants presented and filed Demurrers to said Indictment and motions to Quash same, as to all of said defendants contained in said Indictment. Thereupon, after hearing attorneys for respective parties, the Court ordered

that hearings of Demurrers and Motions to Quash be, and the same are hereby, continued until August 21st, 1915. This case came on regularly this day for the entry of defendant Kenneth Croft's plea to said Indictment and in view of the Demurrer and Motion to Quash, [18] this day filed, the Court ordered that said matter be, and the same is hereby, dropped from the calendar. This case came on likewise to be set for the trial of defendant Harry G. Lane upon the Indictment herein against him and in view of the Demurrer and Motion to Quash, this day filed on his behalf, the Court ordered that said matter be, and the same is hereby, dropped from the calendar. [19]

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*In the District Court of the United States, in and for  
the Northern District of California, First Di-  
vision.*

No. 5750.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT, C.  
D. LAWRENCE,

Defendants.

**Motion [of Blair-Murdock Co. et al.] to Quash  
Indictment.**

Now comes each and all of the above-named defendants, save and except the above-named defend-

ant Thomas Addis, and move said Court to quash the Indictment herein, and each and all of the counts in said Indictment contained, upon the following grounds for the following reasons, to wit:

I.

The above-entitled Court has no jurisdiction herein.

II.

It nowhere appears in or from said Indictment, or any or either of the counts therein contained, that the grand jurors therein referred to were ever charged by any court.

III.

It nowhere appears in or from said Indictment, or either or any of the counts therein contained, that the grand jurors therein referred to were ever impaneled or sworn; or that said grand jurors were ever impaneled or sworn for or at the term of said court at or during which said indictment purports to have been found or filed.

IV.

That no offense against any law of the United States is [20] charged, set forth or alleged in said Indictment, or in any count thereof.

V.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether the foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district people, nation, commonwealth, or government is at war, or in a state

of war with any other prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community.

VI.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether, if said foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth, or government, be at war, or in a state of war with any other prince, or foreign prince, or state, colony, district or people, or other nation, commonwealth, government or community, either said foreign prince in said Indictment referred to, or his state, colony, district, people, nation, commonwealth, or government, or such other prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community, is at peace, or in a state of peace, with the United States of America.

VII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, that, at any time or place in said Indictment, mentioned or in any or either [21] of its counts referred to, there was any common intent in which said defendant, and any other person named in said Indictment, or in any of its counts participated; or that there was any meeting of the minds of said defendant and any other person named in said

Indictment or in any of its counts upon or as to any hiring and retaining, or hiring or retaining therein mentioned.

### VIII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it to be ascertained from said Indictment, or from any of the counts thereof, of what foreign prince, or state, or colony, or district, or people, or nation, or commonwealth, or government, or community, any or either of the persons or person named in said Indictment, or in any of its counts, were or was, at the time or times, or place or places, in said Indictment, and in each of the counts thereof mentioned subjects or citizens, or a subject or citizen.

### IX.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether said defendants, or either of them, or any other person named in said Indictment or in any of its counts, at the time or times, or place or places in said Indictment, and each of the counts thereof mentioned, were or was subjects or citizens, or a subject or citizen, of any foreign prince, state, colony, district or people with which the United States of America was then at peace.

### X.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from

any of the counts thereof, whether any of the persons therein referred to as having been hired and retained [22] or hired or retained, or to be hired and retained, or to be hired or retained, were or was, at the time and/or place of such alleged hiring and retaining, or hiring or retaining, or at any time, subjects or citizens or a subject or citizen of the same foreign prince, state, colony, district or people of which said defendants, or either or any of them, were subjects or citizens, or was a subject or citizen; and/or subjects or citizens, or a subject or citizen, of any foreign prince, state, colony, district, or people, with which the United States of America was then at peace; and/or whether any of the persons referred to in said Indictment, or in any of its counts, as having been hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, were or was at the time or times, and/or place or places of such hiring and retaining, or hiring or retaining, or at any time transiently within the United States of America, and/or were hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, to enlist and enter, or enlist or enter, themselves or himself to serve any foreign prince, state, colony, district, or people, on board a vessel of war, letter of marque, or privateer, which at the time of its arrival within the said United States, was fitted and equipped as such.

XI.

Said Indictment and each of the counts thereof is ambiguous, uncertain, unintelligible, vague, indefinite, and insufficient to afford proper notice to these

defendants or to apprise them of the facts of time, place and circumstance of the purported offense sought to be alleged and charged therein against them, or to enable them to prepare their defense thereto, or to enable them to plead any judgment of said Court upon said Indictment, or upon any of the counts thereof, in bar of another or further prosecution of them for the matters and things in said Indictment and/or each of [23] the counts thereof referred to, or to enable said Court to adjudge whether the acts sought to be alleged in said Indictment, or in any or either of the counts thereof, constitute or amount to any crime or offense in law; and in this behalf these defendants set forth the particulars as follows, to wit:

(a) These defendants set forth and assign as among said particulars each and all of the reasons and grounds hereinabove in this motion set forth and included in the preceding paragraphs hereof numbered from I to X inclusive.

(b) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what conduct, if any, the conspiracy therein mentioned involved, so as to enable said Court to adjudge whether such conduct was or is indictable or not.

(c) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, that any conspiracy, as therein alleged whether to commit certain or any offenses or offense against the United States was entered into by any or either of the per-



sons or person in said Indictment referred to; nor does it appear from said Indictment, or from any or either of the counts thereof that if any offense of any kind was committed by any or either of the persons therein named, such offense was anything other than an offense committed by a plurality of actors.

(d) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, how or why or under what circumstances, if at all, the acts charged in said Indictment and in each of the counts thereof to have been done in furtherance of the alleged conspiracy and to effect and accomplish the object thereof, were, [24] or any of them was, in furtherance of said conspiracy, or done to effect and/or accomplish the object thereof; nor does it anywhere appear from said Indictment, or from either of the counts thereof, what relation or connection, if any, existed between said acts, or any one of them, referred to in said Indictment, and in each or any of the counts thereof and the conspiracy therein alleged and charged.

(e) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom when, if at all, the hiring and retaining, or hiring or retaining, therein referred to took place or occurred.

(f) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom where, within the territory of the United States, if at all, the hiring and retaining, or hiring or retaining, in said Indictment, and/or in each or any of the counts referred

to, took place or occurred; or where at the time of said alleged hiring and retaining, or hiring or retaining the person or persons alleged to have been hired and retained, or hired or retained, actually were or was.

(g) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what facts or facts constituted the alleged hiring and retaining, or hiring or retaining therein referred to, or are relied upon to constitute such hiring and retaining, or hiring or retaining.

(h) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, or foreign prince, state, colony, district or people, any [25] one of the persons alleged in said Indictment to have been hired and retained, or hired or retained, to enlist and enter, or enlist or enter, as a soldier was a soldier.

(i) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, or foreign prince, state, colony, district or people, any one of the persons alleged in said indictment to have been hired and retained, or hired or retained, to enlist and enter, or enlist or enter as a marine and seaman on board a vessel of war, was a marine and seaman, or marine or seaman on board a vessel of war.

(j) It nowhere appears in or from said Indict-

ment, or from or in any or either of the counts thereof, nor can it be ascertained therefrom, whether any one of the persons referred to in said indictment, and more particularly in the second count thereof, was hired and retained; or hired or retained, or to be hired and retained or to be hired or retained, to enlist and enter the service of any foreign prince as a marine or as a seaman.

(k) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, upon whose or what vessel of war any one of the persons referred to in said Indictment, and more particularly in the second count thereof, was hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained to enlist and enter.

## XII.

And as to and against the FIRST COUNT in said Indictment contained these defendants here repeat, set forth and allege each and all of the grounds and reasons and matters and things set forth and alleged in the foregoing paragraphs numbered from I to XI, inclusive, [26] and pray that the same be taken and deemed to be applied to and directed against said FIRST COUNT; and further pray that for the grounds and reasons, and matters and things in said paragraphs set forth and alleged, said FIRST COUNT be quashed by said Court.

## XIII.

And as to and against the SECOND COUNT in said Indictment contained, there defendants here repeat, set forth and allege each and all of the

grounds, reasons and matters and things set forth and alleged in the foregoing paragraphs numbered from I to XI, inclusive, and pray that the same be taken and deemed to be applied and directed against said SECOND COUNT; and further pray that for the grounds and reasons and matters and things in said paragraphs set forth and alleged, said SECOND COUNT be quashed by said Court.

WHEREFORE, these defendants respectfully pray that said Indictment, and each and all of the counts thereof, be quashed by said Court, that the above-entitled action be dismissed, that these defendants be acquitted and discharged, and that the bail of these defendants herein be exonerated.

WRIGHT, WRIGHT & STETSON.

J. J. DUNNE.

H. G. W. DINKELSPEIL,

J. R. JONES,

Of Counsel.

Received a copy of foregoing, this 16th day of August, 1915.

JNO. W. PRESTON,

U. S. Attorney.

[Endorsed]: Filed Aug. 16, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [27]

*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

No. 5750.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Motion [of Thomas Addis] to Quash Indictment.**

Now comes Thomas Addis, one of the defendants above named, and moves said Court to quash the Indictment herein, and each and all of the counts in said Indictment contained, upon the following grounds, and for the following reasons, to wit:

I.

The above-entitled Court has no jurisdiction herein.

II.

It nowhere appears in or from said Indictment, or any or either of the counts therein contained, that the grand jurors therein referred to were ever charged by any court.

III.

It nowhere appears in or from said Indictment, or either or any of the counts therein contained, that the grand jurors therein referred to were ever im-

paneled or sworn; or that said grand jurors were ever impaneled or sworn for or at the term of said court at or during which said Indictment purports to have been found or filed.

## IV.

That no offense against any law of the United States is [28] charged, set forth or alleged in said Indictment, or in any count thereof.

## V.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether the foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth, or government is at war, or in a state of war with any other prince or foreign prince, or state, colony, district, or people or other nation, commonwealth, government or community.

## VI.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether, if said foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth, or government, be at war, or in a state of war with any other prince, or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government, or community, either said foreign prince in said indictment referred to, or his state, colony, district, people, na-

tion, commonwealth, or government, or such other prince or foreign prince, or state, colony, district or people, or other nation, commonwealth, government or community is at peace, or in a state of peace, with the United States of America.

VII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, that, at [29] any time or place in said Indictment mentioned, or in any or either of its counts referred to, there was any common intent in which said defendant, and any other person named in said Indictment, or in any of its counts participated; or that there was any meeting of the minds of said defendant and any other person named in said indictment or in any of its counts upon or as to any hiring and retaining, or hiring or retaining therein mentioned.

VIII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, of what foreign prince, or state, or colony, or district, or people or nation, or commonwealth, or government, or community, any or either of the persons or person named in said Indictment, or in any of its counts, were or was, at the time or times, or place or places, in said Indictment, and in each of the counts thereof mentioned, subjects or citizens, or a subject or citizen.

IX.

It nowhere appears in or from said Indictment, or

in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof whether said defendants, or either of them, or any other person named in said Indictment or in any of its counts, at the time or times, or place or places in said Indictment, and each of the counts thereof mentioned, were or was subjects or citizens or a subject or citizen, of any foreign prince, state, colony, district or people with which the United States of America was then at peace.

X.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether [30] any of the persons therein referred to as having been hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, were or was, at the time and/or place of such alleged hiring and retaining, or hiring or retaining, or at any time, subjects or citizens or a subject or citizen of the same foreign prince, state, colony, district or people of which said defendants, or either or any of them, were subjects or citizens, or was a subject or citizen, and/or subjects or citizens, or a subject or citizen, of any foreign prince, state, colony, district, or people, with which the United States of America was then at peace; and/or whether any of the persons referred to in said Indictment, or hired or retained, or to be hired and retained, or to be hired or retained, were or was at the time or times, and/or place or places of such hiring and retaining, or hiring or retaining,



or at any time transiently within the United States of America, and/or were hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, to enlist and enter, or enlist or enter, themselves or himself to serve any foreign prince, state, colony, district, or people, on board a vessel of war, letters of marque or privateer, which at the time of its arrival within the said United States, was fitted and equipped as such.

## XI.

Said Indictment and each of the counts thereof is ambiguous, uncertain, unintelligible, vague, indefinite, and insufficient to afford proper notice to these defendants or to apprise them of the facts of time, place and circumstance of the purported offense sought to be alleged and charged therein against them, or to enable them to prepare their defense thereto, or to enable them to plead any judgment of said Court upon said Indictment, or upon any of the counts thereof, in bar of another or further prosecution of them for [31] the matters and things in said Indictment and/or each of the counts thereof referred to, or to enable said Court to adjudge whether the acts sought to be alleged in said Indictment, or in any or either of the counts thereof, constitute or amount to any crime or offense in law; and in his behalf these defendants set forth the particulars as follows, to wit:

(a) These defendants set forth and assign as among said particulars each and all of the reasons and grounds hereinabove in this motion set forth and included in the preceding paragraphs hereof num-

bered from I to X inclusive.

(b) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what conduct, if any, the conspiracy therein mentioned involved, so as to enable said Court to adjudge whether such conduct was or is indictable or not.

(c) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, that any conspiracy, as therein alleged, whether to commit certain or any offenses or offense against the United States was entered into by any or either of the persons or person in said Indictment referred to; nor does it appear from said Indictment, or from any or either of the counts thereof that if any offense of any kind was committed by any or either of the persons therein named, such offense was anything other than an offense committed by a plurality of actors.

(d) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, how or why or under what circumstances, if at all, the acts charged in said Indictment and in each of the counts thereof to have been done in furtherance of the alleged conspiracy [32] and to effect and accomplish the object thereof were, or any of them was, in furtherance of said conspiracy, or done to effect and/or accomplish the object thereof; nor does it anywhere appear from said Indictment, or from either of the counts thereof, what relation or connection, if any, existed between said acts, or any of

them, referred to in said Indictment, and in each or any of the counts thereof had to the conspiracy therein alleged and charged.

(e) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom when, if at all, the hiring and retaining, or hiring or retaining, therein referred to took place or occurred.

(f) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, where, within the territory of the United States, if at all, the hiring and retaining or hiring or retaining, in said Indictment, and/or in each or any of the counts referred to, took place or occurred; or where at the time of said alleged hiring and retaining, or hiring or retaining, the person or persons alleged to have been hired and retained, or hired or retained, actually were or was.

(g) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what fact or facts constituted the alleged hiring and retaining, or hiring or retaining therein referred to, or are relied upon to constitute such hiring and retaining, or hiring or retaining.

(h) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, [33] or foreign prince, state, colony, district or people, any one of the persons alleged in said Indictment to have

been hired and retained, or hired or retained, to enlist, and enter, or enlist or enter, as a soldier was a soldier.

(i) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, or foreign prince, state, colony, district, or people, any one of the persons alleged in said Indictment to have been hired and retained, or hired or retained, to enlist and enter, or enlist or enter as a marine and seaman on board a vessel of war, was a marine and seaman, or marine or seaman on board a vessel of war.

(j) It nowhere appears in or from said Indictment, or from or in any or either of the counts thereof, nor can it be ascertained therefrom, whether any one of the persons referred to in said indictment, and more particularly in the second count thereof, was hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, to enlist and enter the services of any foreign prince as a marine or as a seaman.

(k) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, upon whose or what vessel of war any one of the persons referred to in said Indictment, and more particularly in the second count thereof, was hired and retained, or hired or retained to enlist and enter.

## XII.

And as to and against the FIRST COUNT in said Indictment contained, these defendants here repeat, set forth and allege each and all of the grounds and

reasons and matters and things set forth [34] and alleged in the foregoing paragraphs numbered from I to XI, inclusive, and pray that the same be taken and deemed to be applied to and directed against said FIRST COUNT; and further pray that for the grounds and reasons, and matters and things in said paragraph set forth and alleged, said FIRST COUNT be quashed by said Court.

XIII.

And as to and against the SECOND COUNT in said Indictment contained, these defendants here repeat, set forth and allege each and all of the grounds, reasons and matters and things set forth and alleged in the foregoing paragraphs numbered from I to XI, inclusive; and pray that the same be taken and deemed to be applied and directed against said SECOND COUNT; and further pray that for the grounds and reasons and matters and things in said paragraphs set forth and alleged, said SECOND COUNT be quashed by said Court.

WHEREFORE, these defendants respectfully pray that said indictment, and each and all of the counts thereof, be quashed by said Court, that the above-entitled action be dismissed, that these defendants be acquitted and discharged, and that the bail of these defendants herein be exonerated.

HENRY G. W. DINKELSPIEL.

JOHN R. JONES.

ALLEN G. WRIGHT,

J. J. DUNNE,

Of Counsel.

Rec'd copy.

JNO. W. PRESTON.

[Endorsed]: Filed Aug. 16, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [35]

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*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Demurrer [of Blair-Murdock Co. et al.] to  
Indictment.**

Now come each and all of the above-named de-  
fendants, save and except the above-named defend-  
ant Thomas Addis, and demur to the Indictment  
herein, and to each and all of the counts in said In-  
dictment contained, upon the following grounds and  
for the following reasons, to wit:

I.

The above-entitled Court has no jurisdiction  
herein.

II.

It nowhere appears in or from said Indictment, or  
any or either of the counts therein contained, that  
the grand jurors therein referred to were ever  
charged by any court.

III.

It nowhere appears in or from said Indictment, or either or any of the counts therein contained, that the grand jurors therein referred to were ever impaneled or sworn; or that said grand jurors were ever impaneled or sworn for or at the term of said court at or during which said Indictment purports to have been found or filed.

IV.

That no offense against any law of the United States is [36] charged, set forth or alleged in said Indictment, or in any count thereof.

V.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether the foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth or government is at war, or in a state of war with any other prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community.

VI.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said indictment, or from any of the counts thereof, whether, if said foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth, or government be at war, or in a state of war with any other prince, or foreign

prince, or state, colony, district or people, or other nation, commonwealth, government or community, either said foreign prince in said Indictment referred to, or his state, colony, district, people, nation, commonwealth or government or such other prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community, is at peace, or in a state of peace, with the United States of America.

## VII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, that, at any time or place in said Indictment mentioned, or in any or either [37] of its counts referred to, there was any common intent in which said defendant, and any other person named in said Indictment, or in any of its counts participated; or that there was any meeting of the minds of said defendant and any other person named in said Indictment or in any of its counts upon or as to any hiring and retaining, or hiring or retaining therein mentioned.

## VIII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, of what foreign prince, or state, or colony, or district, or people, or nation, or commonwealth, or government, or community, any or either of the persons or person named in said Indictment, or in any of its counts, were or was, at the



time or times, or place or places, in said Indictment, and in each of the counts thereof mentioned, subjects or citizens, or a subject or citizen.

IX.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether said defendants, or either of them, or any other person named in said Indictment or in any of its counts, at the time or times, or place or places in said Indictment, and each of the counts thereof mentioned were or was subjects or citizens, or a subject or citizen, of any foreign prince, state, colony, district or people with which the United States of America was then at peace.

X.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether any of the persons therein referred to as having been hired and retained, [38] or hired or retained, or to be hired and retained, or to be hired or retained, were or was, at the time and/or place of such alleged hiring and retaining, or hiring or retaining, or at any time or place, subjects or citizens, or a subject or citizen of the same foreign prince, state, colony, district or people of which said defendants, or either or any of them, were subjects or citizens, or was a subject or citizen; and/or subjects or citizens, or a subject or citizen, of any foreign prince, state, colony, dis-

trict or people, with which the United States of America was then at peace; and/or whether any of the persons referred to in said Indictment, or in any of its counts, as having been hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, were or was at the time or times, and/or place or places of such hiring and retaining, or hiring or retaining, or at any time transiently within the United States of America, and/or were hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, to enlist and enter, or enlist or enter, themselves or himself to serve any foreign prince, state, colony, district or people, on board a vessel of war, letter of marque, or privateer, which at the time of its arrival within the said United States, was fitted and equipped as such.

## XI.

Said Indictment and each of the counts thereof is ambiguous, uncertain, unintelligible, vague, indefinite, and insufficient to afford proper notice to these defendants or to apprise them of the facts of time, place and circumstance of the purported offense sought to be alleged and charged therein against them, or to enable them to prepare their defense thereto, or to enable them to plead any judgment of said Court upon said Indictment, or upon any of the counts thereof, in bar of another or further prosecution of them for the matters and things in said Indictment and/or each of the counts [39] thereof referred to, or to enable said court to adjudge whether the acts sought to be alleged in said

Indictment, or in any or either of the counts thereof, constitute or amount to any crime or offense in law; and in this behalf these defendants set forth the particulars as follows, to wit:

(a) These defendants set forth and assign as among said particulars each and all of the reasons and grounds hereinabove in this motion set forth and included in the preceding paragraphs hereof numbered from I to X, inclusive.

(b) It nowhere appears to or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what conduct, if any, the conspiracy therein mentioned involved, so as to enable said Court to adjudge whether such conduct was or is indictable or not.

(c) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, that any conspiracy, as therein alleged whether to commit certain or any offenses or offense against the United States was entered into by any or either of the persons or person in said Indictment referred to; nor does it appear from said Indictment, or from any or either of the counts thereof, that if any offense of any kind was committed by any or either of the persons therein named, such offense was anything other than an offense committed by a plurality of actors.

(d) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, how or why or under what circumstances, if at all, the acts

charged in said Indictment and in each of the counts thereof to have been done in furtherance of the alleged conspiracy and to effect and accomplish the object thereof were, [40] or any of them was, in furtherance of said conspiracy, or done to effect and/or accomplish the object thereof; nor does it anywhere appear from said Indictment, or from either of the counts thereof, what relation or connection, if any, existed between said acts, or any one of them, referred to in said Indictment, and/or in each of the counts thereof and the conspiracy therein alleged and charged.

(e) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom when, if at all, the hiring and retaining, or hiring or retaining, therein referred to took place or occurred.

(f) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, where, within the territory of the United States, if at all, the hiring and retaining, or hiring or retaining, in said Indictment, and/or in each or any of the counts referred to, took place or occurred; or where at the time of said alleged hiring and retaining, or hiring or retaining, the person or persons alleged to have been hired and retained, or hired or retained, actually were or was.

(g) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what fact or facts constituted the alleged hiring and re-

taining, or hiring or retaining therein referred to, or are relied upon to constitute such hiring and retaining, or hiring or retaining.

(h) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, or foreign prince, state, colony, district or people any one of the persons alleged in said Indictment to have been [41] hired and retained, or hired or retained, to enlist and enter, or enlist or enter, as a soldier was a soldier.

(i) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, or foreign prince, state, colony, district or people, any one of the person alleged in said Indictment to have been hired and retained, or hired or retained, to enlist and enter, or enlist or enter as a marine and seaman on board a vessel of war, was a marine and seaman, or marine or seaman on board a vessel of war.

(j) It nowhere appears in or from said Indictment, or from or in any or either of the counts thereof, nor can it be ascertained therefrom, whether any one of the persons referred to in said Indictment, and more particularly in the second count thereof, was hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained to enlist and enter the service of any foreign prince as a marine or as a seaman.

(k) It nowhere appears in or from said Indict-

ment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, upon whose or what vessel of war any one of the persons referred to in said Indictment, and more particularly in the second count thereof, was hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained to enlist and enter.

## XII.

And as to and against the FIRST COUNT in said Indictment contained these defendants here repeat, set forth and allege each and all of the grounds and reasons and matters and things set forth and alleged in the foregoing paragraphs numbered from I to XI, [42] inclusive, and pray that the same be taken and deemed to be applied to and directed against said FIRST COUNT; and further pray that for the grounds and reasons and matters and things in said paragraphs set forth and alleged this demurrer to said FIRST COUNT be sustained by said Court.

## XIII.

And as to and against the SECOND COUNT in said Indictment contained these defendants here repeat, set forth and allege each and all of the grounds and reasons and matters and things set forth and alleged in the foregoing paragraphs numbered from I to XI, inclusive, and pray that the same be taken and deemed to be applied to and directed against said SECOND COUNT; and further pray that for the grounds and reasons and matters and things in said paragraphs set forth and alleged this demurrer to said SECOND COUNT be sustained by said Court.

WHEREFORE, these defendants respectfully

pray that this demurrer to said Indictment and to each and all of the counts thereof, be by said Court sustained, that the above-entitled action be dismissed, that these defendants be acquitted and discharged and that the bail of these defendants herein be exonerated.

WRIGHT, WRIGHT & STETSON,  
J. J. DUNNE,

Attorneys for said Defendant.

H. G. W. DINKELSPIEL,

J. R. JONES,

Of Counsel.

Received a copy of foregoing this 16th day of August, 1915.

JNO. W. PRESTON,  
U. S. Attorney.

[Endorsed]: Filed Aug. 16, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [43]

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*In the District Court of the United States, in and for  
the Northern District of California, First Di-  
vision.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Demurrer [of Thomas Addis] to Indictment.**

Now comes Thomas Addis, one of the above-named defendants, and demurs to the Indictment herein, and to each and all of the counts in said Indictment contained upon the following grounds and for the following reasons, to wit:

**I.**

The above-entitled Court has no jurisdiction herein.

**II.**

It nowhere appears in or from said Indictment, or any or either of the counts therein contained, that the grand jurors therein referred to were ever charged by any court.

**III.**

It nowhere appears in or from said Indictment, or either or any of the counts therein contained, that the grand jurors referred to therein were ever impaneled or sworn; or that said grand jurors were ever impaneled or sworn for or at the term of said court at or during which said Indictment purports to have been found or filed.

**IV.**

That no offense against any law of the United States is charged, set forth or alleged in said Indictment, or in any count thereof.

**V.**

It nowhere appears in or from said Indictment, or in or [44] from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether the foreign prince therein referred to as the king of



Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth or government is at war, or in a state of war with any other prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community.

VI.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether, if said foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth, or government be at war, or in a state of war with any other prince, or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community, either said foreign prince in said Indictment referred to, or his state, colony, district, people, nation, commonwealth or government or such other prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community, is at peace, or in a state of peace, with the United States of America.

VII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, that, at any time or place in said Indictment mentioned or in any or either of its counts referred to, there was any common intent in which said defendant, and any other

person named in said Indictment, or in any of its counts participated; or that there was any meeting of the minds of said defendant and any other person named in said Indictment [45] or in any of its counts upon or as to any hiring and retaining, or hiring or retaining therein mentioned.

### VIII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, of what foreign prince, or state, or colony, or district, or people, or nation, or commonwealth, or government, or community, any or either of the persons or person named in said Indictment, or in any of its counts, were or was at the time or times, or place or places, in said Indictment, and in each of the counts thereof mentioned, subjects or citizens, or a subject or citizen.

### IX.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether said defendants, or either of them, or any other person named in said Indictment or in any of its counts, at the times or times, or place or places in said Indictment, and each of the counts thereof mentioned, were or was subjects or citizens, or a subject or citizen of any foreign prince, state, colony, district or people with which the United States of America was then at peace.

## X.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether any of the persons therein referred to as having been hired and retained, or hired or retained or to be hired and retained, or to be hired or retained were or was, at the time and/or place of such alleged hiring and retaining or hiring or retaining or at any time [46] or place subjects or citizens, or a subject or citizen of the same foreign prince, state, colony, district or people of which said defendants, or either or any of them, were subjects or citizens, or was a subject or citizen; and/or subjects or citizens, or a subject or citizen; of any foreign prince, state, colony, district, or people, with which the United States of America was then at peace; and or whether any of the persons referred to in said Indictment, or in any of its counts, as having been hired and retained, or hired or retained, or to be hired and retained, or to be hired *and* retained, were or was at the time or times, and/or place or places of such hiring and retaining, or hiring or retaining, or at any time transiently within the United States of America, and/or were hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained to enlist and enter, or enlist or enter, themselves or himself to serve any foreign prince, state, colony, district, or people, on board of a vessel of war, letter of marque, or privateer, which at the time of its arrival within the said United

States, was fitted and equipped as such.

### XI.

Said Indictment and each of the counts thereof is ambiguous, uncertained, unintelligible, vague, indefinite, and insufficient to afford proper notice to these defendants or to apprise them of the facts of time, place and circumstances of the purported offense sought to be alleged and charged therein against them, or to enable them to *pre* their defense thereto, or to enable them to plead any judgment of said Court upon said Indictment, or upon any of the counts thereof, in bar of another or further prosecution of them for the matters and things in said Indictment and/or each of the counts thereof referred to, or to enable said Court to adjudge whether the acts sought to be alleged in said Indictment, or in any or either of the counts thereof, constitute or amount to any crime [47] or offense in law; and in this behalf these *dendants* set forth the particulars as follows to wit:

(a) These defendants set forth and assign as among said particulars each and all of the reasons and grounds hereinabove in this motion set forth and included in the preceding paragraphs hereof numbered from I to X, inclusive.

(b) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what conduct, if any, the conspiracy therein mentioned involved, so as to enable said Court to adjudge whether such conduct was or is indictable or not.

(c) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, that any conspiracy, as therein alleged whether to commit certain or any offenses or offense against the United States was entered into by any or either of the persons or person in said Indictment referred to; nor does it appear from said Indictment, or from any or either of the counts thereof that if any offense of any kind was committed by any or either of the persons therein named, such offense was anything other than an offense committed by a plurality of actors.

(d) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, how or why or under what circumstances, if at all, the acts charged in said Indictment and in each of the counts thereof to have been done in furtherance of the alleged conspiracy and to effect and accomplish the object thereof were or any of them was, in furtherance of said conspiracy, or done to effect and or accomplish the object thereof; nor does it anywhere appear from said indictment, or either of the counts thereof, what relation or connection, if any, existed between said acts, or any of them, [48] referred to in said Indictment, and or in each of the counts thereof had to the conspiracy therein alleged and charged.

(e) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom when,

if at all, the hiring and retaining, or hiring or retaining, therein referred to took place or occurred.

(f) It nowhere appears in or from said Indictment, nor in or from either or any of the counts thereof, nor can it be ascertained therefrom, where, within the territory of the United States, if at all, the hiring and retaining, or hiring or retaining, in said Indictment, and or in each or any of the counts referred to, took place or occurred; or where at the time of said alleged hiring and retaining, or hiring or retaining, the person or persons alleged to have been hired and retained, or hired or retained, actually were or was.

(g) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what fact or facts constituted the alleged hiring and retaining, or hiring or retaining therein referred to, or are relied upon to constitute such hiring and retaining, or hiring or retaining.

(h) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, or foreign prince, state, colony, district or people any one of the persons alleged in said Indictment to have been hired and retained, or hired or retained, to enlist and enter, or enlist or enter, as a soldier was a soldier.

(i) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, for or

of whom, if for or of any person or prince, or foreign prince, state, colony, district or people, any one of the persons alleged in said Indictment to have been hired and retained, [49] or hired or retained, to enlist and enter, or enlist or enter as a marine and seaman on board a vessel of war was a marine and seaman, or marine or seaman on board a vessel of war.

(j) It nowhere appears in or from said indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, whether any one of the persons referred to in said Indictment, and more particularly in the second count thereof, was hired and retained, or hired or retained, or to be hired and retained or to be hired or retained to enlist and enter the service of any foreign prince as a marine or as a seaman.

(k) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, upon whose or what vessel of war any one of the persons referred to in said Indictment, and more particularly in the second count thereof, was hired and retained, or hired or retained, or to be hired and retained or to be hired or retained to enlist and enter.

## XII.

And as to and against the FIRST COUNT in said Indictment contained these defendants here repeat, set forth and allege each and all of the grounds and reasons and matters and things set forth and alleged in the foregoing paragraphs numbered from I to XI inclusive, and pray that the same be taken

and deemed to be applied to and directed against said FIRST COUNT; and further pray that for the grounds and reasons and matters and things in said paragraphs set forth and alleged this demurrer to said FIRST COUNT be sustained by said Court.

### XIII.

And as to and against the SECOND COUNT in said Indictment contained these defendants here repeat, set forth and allege each and all of the grounds and reasons and matters and things set forth and alleged in the foregoing paragraphs numbered from I to XI inclusive, [50] and pray that the same be taken and deemed to be applied to and directed against said SECOND COUNT; and further pray that for the grounds and reasons and matters and things in said paragraph set forth and alleged this demurrer to said SECOND COUNT be sustained by said Court.

WHEREFORE these defendants respectfully pray that this demurrer to said Indictment and to each and all of the counts thereof, be by said Court sustained, that the above-entitled action be dismissed, that these defendants be acquitted and discharged and that the bail of these defendants herein be exonerated.

HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

Attorneys for said defendants.

ALLEN G. WRIGHT,

J. J. DUNNE,

Of Counsel.

Rec'd copy.

JNO. W. PRESTON.



[Endorsed]: Filed Aug. 16, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [51]

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**[Order Overruling Demurrers, Denying Motions to Quash, etc.]**

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Saturday, the 21st day of August, in the year of our Lord one thousand nine hundred and fifteen. Present: The Honorable M. T. DOOLING, District Judge.

No. 5750.

UNITED STATES OF AMERICA

vs.

BLAIR-MURDOCK COMPANY etc., et al.

This case came on regularly this day for hearing of the Demurrers to the Indictment filed herein and Motions to Quash said Indictment. John W. Preston, Esq., appeared as United States Attorney. Defendants were present in court with their attorney, J. J. Dunne, Esq. After hearing Mr. Dunne and Mr. Preston, the Court ordered that said Demurrers be, and the same are hereby, overruled and that said Motions to Quash be, and the same are hereby denied. Further ordered that said defendants do now plead to said Indictment, whereupon the said defendants Blair-Murdock Company, by and through its attorney, J. J. Dunne, Esq., Ralph K.

Blair, Thomas Addis, Harry G. Lane, Kenneth Croft and C. D. Lawrence then and there plead Not Guilty of the offense charged in the Indictment herein, which pleas the Court ordered, and the same are hereby, entered. Thereupon, after hearing said attorney, the Court ordered that the trial of said defendants be, and the same is hereby, set for October 18th, 1915, at 10 o'clock A. M., and that said defendants be and appear on said day accordingly. [52]

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At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 18th day of October, in the year of of our Lord, one thousand nine hundred and fifteen. Present: The Honorable M. T. DOOLING, District Judge.

No. 5750.

UNITED STATES OF AMERICA

vs.

BLAIR-MURDOCK CO. etc., et al.

**Minutes of Trial.**

This case came on regularly this day for the trial of defendants Blair-Murdock Company, Ralph K. Blair, Thomas Addis, Harry G. Lane, Kenneth Croft and C. D. Lawrence, each of whom were present in court with their respective counsel, J. J. Dunne, Esq., Henry G. W. Dinkelspiel, Esq. John R. Jones, Esq., and Allen G. Wright, Esq., John W. Preston, Esq., was present on behalf of Plaintiff,

as United States Attorney. Upon the calling of this case all parties answered ready for such trial and accordingly the Court ordered that said trial do now proceed and that the jury-box be filled from the regular panel of trial jurors of this court. Thereupon the following named persons were duly drawn by lot, sworn and examined and then sworn to try the defendants herein, to wit:

A. Moench,	Wm. H. Leahy,
Wm. J. Donnelly,	Geo. M. Dodge,
J. H. McNutt,	J. W. Cain,
Charles H. Victor,	Henry C. Norton,
Wm. F. Barton,	George E. Tooker,
R. W. Costello,	A. S. Mangrum.

Juror Vincent J. Donovan, Perry T. Cumberson and Andrew Carrigan were duly drawn but were excused by the Court for cause before they assumed seats in the jury-box. Thereupon Mr. Preston, in accordance with stipulation of counsel, made in open court, read to the Court and jury an agreed statement of facts and introduced [53] in evidence certain exhibits which were filed and marked U. S. Exhibits "A" and "B" (newspaper clippings), "C" (Register of names, etc), "D" (Letter dated March 31st, 1915), "E" (Blank receipt), "F" (27 cards upon which names, etc., were written), and "G" (Envelope, White Star Line, etc.), and rested. Mr. Dunne then made a motion to instruct the jury herein to return a verdict in favor of defendants of Not Guilty, and after hearing Mr. Dunne and Mr. Preston, the Court ordered that this case be, and the same is hereby, continued until October 21st, 1915,

for argument as to said motion and such other matters as counsel may then desire to submit. Further ordered that the jury sworn herein need not return on said day as to this case, but that they await the further order herein, but that said jurors be in attendance upon the Court on October 22d, 1915, for the consideration of other matters before this Court. Further ordered that all bonds heretofore given for the appearance of witnesses herein be, and the same are hereby, discharged and the surety thereon exonerated. [54]

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*In the District Court of the United States, in and for the Northern District of California, First Division.*

No. 5750.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY, a Corporation,  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
and C. D. LAWRENCE,

Defendants.

**Agreed Statement of Facts.**

In the above-entitled matter, the parties hereby agree that the facts hereinafter set forth are, and may be, treated as the facts in the cause, and that upon a consideration of said facts the Court may instruct the verdict which the jury shall render in said cause:

FACTS:

1. That the Kingdom of Great Britain and her allies were, at all times herein mentioned, and at all times subsequent to August 1st, 1914, in state of war with the German Empire and her allies.

2. That His Majesty, the King of Great Britain and Ireland, was at all times herein mentioned, desirous of the return to Great Britain of British subjects for employment in the army and navy and in the various branches of the national service of all kinds.

3. That the said Kingdom of Great Britain does not have now, and did not have at the times herein mentioned, any law or laws providing for compulsory service of its subjects in either its army or navy.

4. That the men whose names are mentioned in the indictment, concerning whom the defendants are alleged to have conspired [55] in violation of sections 37 and 10 of the Federal Penal Code, were not, nor was either or any of them, members of the Reserve of the British Army or Navy.

I.

5. That at all of the times herein mentioned, A. Carnegie Ross was, and still is, His Britannic Majesty's Consul-General at San Francisco, in the State and Northern District of California.

II.

6. That at the outbreak of said above-mentioned war, the said A. Carnegie Ross, Consul-General as aforesaid, acting for and on behalf of His Majesty's Government, did, on August 3d, 1914, cause to be

published in the two daily morning newspapers of general circulation and published in said City and County of San Francisco, to wit, "The San Francisco Examiner," and "The San Francisco Chronicle," an advertisement, a copy of which is hereto attached and marked exhibit "A."

7. Also, that a news item appeared in said papers at the same time, a copy of which is hereto attached and marked exhibit "B."

8. That a large number of people responded to said notices, only about six of whom were in fact Reserves.

### III.

9. That likewise said A. Carnegie Ross did, during all the times intervening between August 1st, 1914, and March 18th, 1915, cause to be kept a book or register, upon which were entered the name and address of persons calling at the Consulate to inquire concerning military service, which said book or register is hereby filed and made a part of this statement, and is hereby designated as exhibit "C" hereto. [56]

### IV.

10. That said A. Carnegie Ross did, on or about March 15th, 1915, procure the services of the defendants, Ralph K. Blair and Thomas Addis, and also of one W. K. Harris (not now in the United States), who, at San Francisco, in the State and Northern District of California, did the acts and things now herein set forth as done by them.

11. That defendants Blair and Addis, and said Harris, on March 18th, 1915, rented and furnished

room 59 of the Sherwood Building, at 21 Pine Street, in the City and County of San Francisco, as an office, under the name of the "British Friendly Association," said furniture being rented from the Indianapolis Furniture Company.

12. That on May 27th, 1915, said defendants Blair and Addis removed said office to 68 Fremont Street, in said City and County of San Francisco, and returned said furniture.

13. That one W. K. Harris was in charge of said office until its removal aforesaid, after which defendant Ralph K. Blair was in charge thereof.

14. That letter-heads were printed for the use of said British Friendly Association, and the same were used by said Harris to the knowledge of defendants Blair and Addis in its correspondence, and other business transactions, one of which said letter-heads, together with one of the letters of said association, are hereto annexed and made a part hereof, and hereby designated as exhibit "D" hereto.

15. That the British Friendly Association was an unincorporated concern, and was organized with the consent of the above-named Consul-General, and was composed of the said two defendants Blair and Addis, and said Harris.

16. That the expenses of said organization were paid [57] from the funds of the British Government, through said Consul-General.

17. That said British Friendly Association had no other business, and was organized for no other purpose than to facilitate the transportation to New York of British subjects, sound in body and limb.

18. That when said association opened its office at 21 Pine Street, the said register above referred to, was, by said Consul-General, to the knowledge of defendants Blair and Addis, temporarily entrusted to said W. K. Harris, accompanied by the following instructions, to wit:

“1. To send only British subjects who had had military training.

2. To make no engagements of any description whatever.

3. To give no pay or advance.

4. To make no solicitation.

5. Not to send more than 50 men at a time.

6. To require such proof of British nationality as such men are usually able to give.

7. They were to give no information as to pay, allotments, etc.

8. The men were to be examined to see if they were physically suitable.”

And said register continuously remained in the possession of said Harris until on or about May 27th, 1915, when it was turned over by him, to the defendant Blair in whose possession said register remained until returned by said Blair to said Consul-General, and by him voluntarily offered for the purpose of this Agreed Statement of Facts. Said Harris left the State of California on May 27th, 1915.

19. That said Harris, to the knowledge of defendants Blair and Addis, caused to be opened correspondence and communications with the parties named on said register.



20. That the said Consul-General, and the attaches of said Consulate, referred inquiring individuals to the defendant [58] Ralph K. Blair, giving them the street number of said British Friendly Association.

21. That there was printed for the use of said British Friendly Association blank receipts in a form as follows:

\$..... San Francisco, ....., 1915.  
Received from R. K. Blair \$..... for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.  
.....

Also blank cards in a form as follows:

Name.....No. ....  
Address.....Age, .....  
Birthplace.....  
Present occupation.....  
Previous occupation and experience at home or elsewhere.....  
Have you any family here?.....

22. That on May 6th, 1915, the defendant Blair, with funds of the British Government, furnished through the Consul-General as aforesaid, purchased eight tourist railroad tickets through the firm of Thos. Cook & Sons, a corporation, over the Santa Fe Railway and connecting railroads, with destination New York, paying therefor the sum of \$516.80.

23. That on May 18th, the defendant Blair, with funds of the British Government furnished through the Consul-General as aforesaid, purchased twelve tourist tickets through the firm of Thos. Cook &

*In the District Court of the United States, Southern  
District of California, Southern Division.*

ELIZABETH KNUDSEN,

Plaintiff,

vs.

DOMESTIC UTILITIES MANUFACTURING  
COMPANY (a Corporation), EDWIN R.  
CROOKER, HARRY L. CROOKER, LOU-  
ISE E. CROOKER, W. P. ELLIS and F. W.  
STERLING,

Defendants.

**Affidavit of Martin L. Sugarman in Support of  
Application for Order of Arrest of Defendants.**

State of California,

County of Los Angeles,—ss.

Martin L. Sugarman, being first duly sworn, on oath deposes and says: That on the 23d day of January, 1915, he visited the Marsh-Strong Building, at the southwest corner of Ninth and Main Streets, in the City of Los Angeles, State of California, for the purpose of ascertaining the whereabouts of the offices of Domestic Utilities Manufacturing Company; that he examined very carefully the "directory of tenants" in the lobby of said building and that said directory did not disclose the name of the Domestic Utilities Manufacturing Company.

Affiant further says that on the 22d day of January, 1915, he had a conversation with one Frank Reeves, at the office of said Reeves, 1112 and 1114 Marsh-Strong Building, Los Angeles, [63] and

that said Frank Reeves stated to said affiant that one Edwin R. Crooker was at the time of said conversation in England.

In said conversation said Reeves stated to said affiant that he had been connected with Domestic Utilities Manufacturing Company in its clothes-washer business and was still connected with said business and with said Edwin R. Crooker; that the Domestic Utilities Manufacturing Company in their clothes-washer business had in fact nothing to sell, except paper and that it had no commodity to place in the hands of its agents; that he, the said Reeves, had a proposition that he was going to put on the market and that would beat the Crooker Clothes-Washers Proposition 300%. Said Reeves further said to said affiant, that Edwin R. Crooker has made two and a half million dollars out of the clothes-washer proposition.

Affiant further says that said Reeves said to affiant: "I have the brains of the clothes-washer proposition now in my company, F. W. Sterling, who was with Crooker in the clothes-washer business and who was the brains of that proposition is now associated with me in my proposition."

Affiant further says that said Reeves told affiant that he, the said Reeves, had taken in as much as \$3,000.00 in checks through the mails in a single day while he was in charge of said clothes-washer business for the Crookers.

Affiant further says that said Frank Reeves said to affiant at said time and place: "If you want to invest some money in the clothes-washer business I

34. That for the purpose of the orderly transportation of said men, it was necessary to provide board and lodging for them, both pending physical examination, and after examination and pending transportation; and such board and lodging was accordingly provided, and the expense thereof paid by the British Government in the same way and manner as other expenses herein referred to, were paid.

35. That for this purpose, the defendant Blair, prior to the transportation of men named in the Indictment, made a contract with a firm at 735 Harrison Street, San Francisco, known as the Workingmen's Aid, in charge of a man named Henry Smith, to board and lodge men at the rate of \$3.50 per week.

36. Defendant H. C. Lane, claiming to act for and on behalf of defendant Blair, also made arrangements with a Mrs. Lee of 735A Harrison Street, San Francisco, to lodge men—as many as 20 or 25 at a time—at \$1.25 each per week.

37. That some of the men named in the Indictment, boarded and lodged at these places and the expense was paid by the British Government in the same way and manner as other expenses herein referred to, were paid. [61]

38. That an unknown person at certain times stood near the entrance at 68 Fremont Street, in the City and County of San Francisco, and instructed applicants as to the necessary requirements before they could be transported; but it is admitted that if Blair and Addis took the stand and testified herein under oath, they would testify that the same was done without their knowledge or authority.

39. That the defendant Kenneth Croft was the party designated by said defendant Blair to hold the tickets and sustenance money upon the transportation of the twenty-seven men (the parties named in the Indictment being among said twenty-seven men) who left on June 16th, 1915, destined for New York. That one *Seamens* performed a similar service on a prior occasion.

40. That the sum of \$9.10 advanced to each man was not paid to said men direct, but was delivered in bulk to defendant Croft who gave it out 50 cents and \$1.00 at a time on the trip as they journeyed to New York.

41. The party was detained at Chicago by special agents of the United States, but after being interviewed by those officials the party proceeded to New York, and while in Chicago, defendant Croft sent the following telegrams that were received by defendant Blair.:

Chicago, Ill., 19-1121, A. M.

“B146 Ch 22.

R. K. Blair:

British Friendly Ass., 68 Fremont, San  
Francisco.

Held up here by federal authorities for investigation; need further funds for parties sustenance; wire hundred, room eight five nine, Federal Building.

KENNETH CROFT.”

“297 D 11 Collect.

Chicago, Ills., 412 P. M. 19.

R. K. Blair:

British Friendly Association.

Sixty-eight Fremont Street, San Francisco, Calif.

Party twenty-three strong proceeded New York three P. M. Following later."

[62]

SP., Chicago, Ills., June 20, 1915.

"C274 CHVN 5 ONL.

R. K. Blair:

68 Fremont St., San Francisco, Cal.

Looked for word responding by wires reporting detention and final satisfactory dispatch of party; papers here full of matter and news sent New York mentioning me prominently making procedure through New York impossible for me owing to personal matter I spoke about, consequently remaining here till can make arrangements; will write fully.

CROFT. 1047P."

42. That this party of men arrived in New York on June 22d, 1915.

43. Later, and on the next day, some of this party appeared before a man called Captain Roche at the British Consulate at 17 State Street, in New York, where a second physical examination was had and where those passing this examination, were handed an empty envelope similar to the one hereto attached and marked exhibit "G," which was to be exchanged at the dock for a steamship ticket to Liverpool, England.

44. That all British soldiers and seamen, whether Colonial or otherwise, receive a daily pay and may receive pensions and allotments after service is terminated. These facts were known both to the defendants and to the transported men, except that said rate of daily pay, or whether the same had been increased, was not known to any of the defendants.

45. It was a fact that the defendants Blair and Addis supposed, believed and presumed that the transported men would enlist in the military or naval service of Great Britain, and it was the individual intent of a majority of said transported men, to enlist in such service.

46. The party named in the Indictment as Frank G. Cook, was an American citizen, but never was in the military or naval service of Great Britain, and he, the said Frank G. Cook falsely stated to said defendants Blair and Addis that he was a British subject, born in Dublin, Ireland; that he had served in the Summerset [63] Light Infantry, a military organization, in the military service of Great Britain, and he, the said Frank G. Cook, while detained at Chicago by the officials of the United States as aforesaid, falsely stated to them that he was a British subject born in St. Johns, New Brunswick, Dominion of Canada, and that he had served as a soldier in the Canadian Dragoons, a military organization, in the military service of Great Britain.

47. William Stables was, at the time of his transportation, an enlisted man of the American army, but was a British subject and he stated to the defendants Blair and Addis that he had served as a

soldier in the 4th King's Royal Lancaster Regiment, a military organization, in the military service of Great Britain, and falsely represented that his occupation at that time was the civilian occupation of a painter, and that his residence at that time was Pengrove, California, and the fact that he, the said William Stables, was at that time a soldier in the American army, was concealed by him, and was wholly unknown to said defendants.

48. Robert Johnson was formerly an enlisted man of the American navy under the name of Watson, but is a British subject, and was a deserter from the British navy.

49. All other parties named in the Indictment are, so far as known, British subjects.

50. The defendants are each British subjects, but none of them are Reserves.

51. That the funds advanced were by check of A. Carnegie Ross upon an account at the Canadian Bank of Commerce of San Francisco, and made payable to either Ralph K. Blair or the defendant Blair-Murdock & Co., a corporation.

52. That defendant Blair deposited some of the funds in his own name at the Bank of California, a San Francisco corporation, [64] and some in the name of Blair-Murdock & Co., at the same bank, and checked on the accounts accordingly.

53. That no other proof of the military or naval service of the men whose names appear in the Indictment, was required or produced, than what appears from the statement furnished by said men and appearing on the cards herewith, and designated exhibit "F."



54. In the following countries: The German Empire, the French Republic, the Austria-Hungary Monarchy, the Kingdom of Italy, the Russian Empire, and the Kingdom of Servia, there are now, and at all the times in the Indictment mentioned were, laws enforced for the compulsory service of their subjects in their armies and navies, and the subjects of those countries in the United States of America, have heretofore, and during the times in said Indictment mentioned, returned freely from the United States of America to their countries for military service as required by their respective laws, and have been aided and assisted thereunto by their respective Consular and diplomatic officers.

55. At none of the times mentioned in said Indictment, was it expressly said by defendants, or any of them, in words to any of the men transported to New York, that they, the said transported men, should enlist or enter themselves in the service of Great Britain as solidiers, sailors or marines.

56. Nothing herein contained is, or shall be, construed as any waiver, surrender, qualification, limitation, or restriction of the right to remove this cause by writ of error to an Appellate Court; but on the contrary, such right to remove this cause to an Appellate Court by writ of error, shall be and [65]

is hereby preserved in all respects.

THE UNITED STATES OF AMERICA,

By JNO. W. PRESTON,

United States Attorney.

ALL OF THE DEFENDANTS (except  
THOMAS ADDIS),

By J. J. DUNNE, WRIGHT & WRIGHT  
& STETSON,

Their Attorneys.

THOMAS ADDIS,

By HENRY G. W. DINKELSPIEL,

JOHN R. JONES,

His Attorneys.

[Endorsed]: Presented in open court and filed  
Oct. 18, 1915. W. B. Maling, Clerk. By Lyle S.  
Morris, Deputy. [66]

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At a stated term of the District Court of the United  
States of America for the Northern District of  
California, First Division, held at the courtroom  
thereof, in the City and County of San Fran-  
cisco, on Thursday, the 21st day of October, in  
the year of our Lord, one thousand nine hun-  
dred and fifteen. Present: The Honorable  
MAURICE T. DOOLING, District Judge.

UNITED STATES OF AMERICA

vs.

BLAIR-MURDOCK CO., etc. et al.

**Order Submitting Motion to Instruct Jury to Acquit.**

This case came on regularly this day for hearing,  
before the Court and in the absence of the jury, on  
the motion of defendants for instruction to the jury

impaneled herein to acquit defendants herein. Said defendants were present in court with their respective attorneys, J. J. Dunne, Esq., Henry G. W. Dinkelspiel, Esq., J. R. Jones, Esq., and Allen G. Wright, Esq., and John W. Preston, Esq., was present as United States Attorney. Said motion was then argued by Mr. Dunne and Mr. Preston and ordered submitted. [67]

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At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom hereof, in the City and County of San Francisco, on Wednesday, the 27th day of October, in the year of our Lord, one thousand nine hundred and fifteen. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 5750.

UNITED STATES OF AMERICA

vs.

BLAIR-MURDOCK CO., etc., et al.

**Minutes of Verdicts, etc.**

In this case the defendants herein Blair-Murdock Company (by its Attorney), Ralph K. Blair, Thomas Addis, Harry G. Lane, Kenneth Croft and C. D. Lawrence were present in court with their respective attorneys, J. J. Dunne, Henry G. W. Dinkelspiel, John R. Jones and Allen G. Wright, Esqrs., and John W. Preston, Esq., was present as United States Attorney. The jury heretofore impaneled and sworn to try said defendant was likewise present in

court and upon being called all twelve (12) Jurors answered to their names and were found to be present. Thereupon, the Court ordered that the Motion to instruct Jury herein to acquit the defendants herein be, and the same is hereby, granted as to defendants Blair-Murdock Company, C. D. Lawrence, Harry G. Land and Kenneth Croft; and granted as to defendants Ralph K. Blair and Thomas Addis, only as to the Second Count of the Indictment herein; and that said Motion be, and the same is hereby denied as to the First Count of the Indictment as to said defendants Blair and Addis. The Court then proceeded to instruct the said Jury as to their Verdicts herein *and* after being so instructed, without leaving the jury-box, returned their Verdicts at 10 o'clock and 55 minutes A. M., which were in writing, and which said Verdicts the Court ordered filed and recorded and which were in the words following, to wit:

“We, the Jury, find the defendants at the Bar, Blair-Murdock Company, C. D. Lawrence, Harry G. Lane and Kenneth Croft, Not Guilty.

WM. H. LEAHY,  
Foreman.”

“We, the Jury, find Ralph K. Blair and Thomas Addis, the defendants, at the Bar Guilty on the First Count of the Indictment and Not Guilty on the Second Count of the Indictment.

WM. H. LEAHY,  
Foreman.”

Thereupon after hearing counsel for respective parties, the Court ordered that this case be, and the

same is hereby, continued until October 30th, 1915, for the pronouncing of Judgments as to said defendants Blair and Addis and that said defendants go at large upon the Bonds heretofore filed for their appearance herein until said time. Further ordered that the defendants Blair-Murdock Company, C. D. Lawrence, Harry G. Lane and Kenneth Croft be, and they are hereby, discharged and that they go hence without day as to the Indictment herein against them.

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[68]

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*In the District Court of the United States, in and for the Northern District of California, First Division.*

No. 5750.

UNITED STATES OF AMERICA,

vs.

BLAIR-MURDOCK COMPANY, RALPH K.  
BLAIR et als.

**Verdict.**

We, the jury, find RALPH K. BLAIR and THOMAS ADDIS, the defendants at the bar, Guilty on the First Count of the Indictment, and Not Guilty on the Second Count of the Indictment.

WM. H. LEAHY,  
Foreman.

[Endorsed]: Filed Oct. 27, 1915. At 10 o'clock, and 55 minutes, A. M. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [69]

*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 5750.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT, C.  
D. LAWRENCE,

Defendants.

**Motion for a New Trial of the Above-entitled Cause.**

Now come the above-named defendants Ralph K. Blair and Thomas Addis, and move the above-entitled Court to vacate, set aside and annul the verdict heretofore, on October 27th, 1915, given, made, rendered and entered in the above-entitled action, in favor of the United States of America, and against these defendants, and each of them, and to grant a new trial to these defendants, and to each of them, of the above-entitled action upon the following grounds and for the following causes, each of which materially affects the substantial rights of these defendants, and of each of them, namely:

1. Said Court has no jurisdiction of the subject matter of the above-entitled action.

2. Neither the Indictment herein, nor any count thereof, states any crime or offense against the laws of the United States; and in this behalf these de-

defendants and each of them, hereby make express and special reference to the reasons and grounds set forth in the motion to quash and demurrer now on file in the above-entitled [70] action, and make those reasons and grounds a part of this motion as fully as if the same had been incorporated at length herein.

3. The "agreed statement of facts" now on file in this criminal action fails to state facts sufficient to authorize or sustain any instruction to find, or any finding, that, at any time or place, any conspiracy, whether as alleged in the indictment on file herein or in either count thereof, or on the part of any two of the defendants named herein, or otherwise to hire and retain, or to hire or retain, any person or persons whatever, within the territory of the United States, to go beyond the limits and jurisdiction of the United States with the intent on the part of any such person or persons to enlist and enter, or enlist or enter in the service of any foreign prince, and/or with the intent on the part of said defendants, or of any two of them, or of any of them, that any such person or persons should be enlisted and entered, or enlisted or entered in the service of any foreign prince, as a soldier, or as a marine or seaman on board a vessel or vessels of war of any foreign prince whatever; and that said "agreed statement of facts" fails to state facts sufficient to authorize or sustain any instruction to find, or any finding, that any hiring and retaining, or hiring or retaining, whether as alleged in said Indictment or in either count thereof, or otherwise, was done or performed by said defendants, or any one or more of them.

4. The aforesaid "agreed statement of facts" fails to show any conspiracy by said defendants as alleged in said Indictment, or in either count thereof, or any conspiracy upon the part of any two or more of said defendants to do or perform or cause to be done or performed any act or acts in order to effect and accomplish [71] any hiring and retaining, or hiring or retaining, as alleged in said Indictment, or in either count thereof, or otherwise.

5. The aforesaid "agreed statement of facts" affirmatively shows that said defendants, or any two of them, if they combined at all, combined to do nothing except that which by law they were not prohibited from doing.

6. The aforesaid "agreed statement of facts" is insufficient to justify or sustain any direction to the jury in this action, or any verdict by said jury, against the defendants, or any one or more of them.

7. The direction and charge of the Court to the jury in the above-entitled action, and the verdict of said jury in said action, against these defendants, and each of them, was and is against and contrary to law.

8. The direction and charge of the Court to the jury in the above-entitled action, and the verdict of said jury in said action, against these defendants, and each of them, is against and contrary to the aforesaid agreed statement of facts.

9. Nothing before this Court is sufficient to overcome, beyond all reasonable doubt, the presumption of innocence to which these defendants are, and each of them is, entitled by law.



10. Insufficiency of the evidence to justify the aforesaid verdict and any judgment entered thereon.

11. The aforesaid verdict and any judgment entered thereon is against law.

WHEREFORE, these defendants, and each of them, pray that this motion be granted according to the tenor thereof.

RALPH K. BLAIR,  
THOMAS ADDIS,  
Defendants.

J. J. DUNNE,  
WRIGHT & WRIGHT & STETSON,  
HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

Attorneys for Defendants. [72]

Service of the foregoing Motion for a New Trial, and receipt of a copy thereof, are hereby admitted, this 30th day of October, 1915.

THE UNITED STATES OF AMERICA,

By JNO. W. PRESTON,

United States Attorney for the Northern District of California, at San Francisco.

[Endorsed]: Filed Oct. 30, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [73]

*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

No. 5750.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Motion in Arrest of Judgment.**

Now come Ralph K. Blair and Thomas Addis above-named defendants, and move said Court to arrest judgment upon the indictment herein and upon each and every count in said Indictment contained upon the following grounds and for the following reasons, to wit:

I.

The above-entitled Court has no jurisdiction herein.

II.

It nowhere appears in or from said Indictment, or any or either of the counts therein contained, that the grand jurors therein referred to were charged by any Court.

III.

It nowhere appears in or from said Indictment, or in or from either or any of the counts therein contained, that the grand jurors therein referred to

were ever impaneled or sworn; or that said grand jurors were ever impaneled or sworn for or at the term of said court at or during which said Indictment purports to have been found or filed. [74]

IV.

That no offense against any law of the United States is charged, set forth or alleged in said Indictment, or in any count thereof.

V.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof whether the foreign prince therein referred to as the King of Great Britain and Ireland, or his state, colony, district, people, nation, commonwealth, or government is at war, or in a state of war with any other prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community.

VI.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether, if said foreign prince therein referred to as the King of Great Britain or Ireland, or his state, colony, district, people, nation, commonwealth, or government, be at war, or in a state of war with any other prince, or foreign prince, or state, colony, district or people, or other nation, commonwealth, government or community, either said foreign prince in said Indictment referred to, or his state, colony, district, people, nation, commonwealth, or government, or such other

prince or foreign prince, or state, colony, district, or people, or other nation, commonwealth, government or community, is at peace, or in a state of peace, with the United States of America.

#### VII.

It nowhere appears in or from said Indictment, or in or [75] from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, that, at any time or place in said Indictment mentioned or in any or either of its counts referred to, there was any common intent in which said defendants or either of them, and any other person named in said Indictment, or in any of its counts participated; or that there was any meeting of the minds of said defendants or either of them, and any other person named in said Indictment or in any of its counts upon or as to any hiring and retaining, or hiring or retaining therein mentioned.

#### VIII.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, of what foreign prince, or state, or colony, or district, or people, or nation, or commonwealth, or government, or community, any or either of the persons or person named in said Indictment, or in any of its counts, were or was, at the time or times, or place or places, in said Indictment, and in each of the counts thereof mentioned, subjects or citizens or a subject or citizen.

#### IX.

It nowhere appears in or from said Indictment, or

in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether said defendants, or either of them, or any other person named in said Indictment or in any of its counts, at the time or times, or place or places in said Indictment, and each of the counts thereof mentioned, were or was subjects or citizens, or a subject or citizen, of any foreign prince, state, colony, district or people with which the United States of America was then at peace. [76]

## X.

It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained from said Indictment, or from any of the counts thereof, whether any of the persons therein referred to as having been hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, were or was, at the time and/or place of such alleged hiring and retaining, or hiring or retaining, or at any time, subjects or citizens or a subject or citizen of the same foreign prince, state, colony, district or people of which said defendants, or either or any of them, were subjects or citizens, or was a subject or citizen; and/or subjects or citizens, or a subject or citizen, of any foreign prince, state, colony, district, or people with which the United States of America was then at peace; and/or whether any of the persons referred to in said Indictment, or in any of its counts, as having been hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, were or was at the time or times, and/or

place or places of such hiring and retaining, or hiring or retaining, or at any time transiently within the United States of America, and/or were hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained, to enlist and enter, or enlist or enter, themselves or himself to serve any foreign prince, state, colony, district, or people, on board a vessel of war, letter of marque, or privateer, which at the time of the arrival within the said United States, was fitted and equipped as such.

### XI.

Said Indictment and each of the counts thereof is ambiguous, uncertain, unintelligible, vague, indefinite, and insufficient to afford proper notice to said defendants, or either of them, or [77] to apprise them, or either of them of the facts of time, place and circumstance of the purported offense sought to be alleged and charged therein against them, or to enable them, or either of them to prepare their defense thereto, or to enable them, or either of them to plead any judgment of said Court upon said Indictment, or upon any of the counts thereof, in bar of another or further prosecution of them for the matters and things in said Indictment and/or each of the counts thereof referred to, or to enable said Court to adjudge whether the acts sought to be alleged in said Indictment, or in any or either of the counts thereof, constitute or amount to any crime or offense in law; and in this behalf said defendants set forth the particulars as follows, to wit:

(a) Said defendants set forth and assign as among said particulars each and all of the reasons and grounds hereinabove in this motion set forth and

included in the preceding paragraphs hereof numbered from I to X, inclusive.

(b) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what conduct, if any, the conspiracy therein mentioned involved, so as to enable said Court to adjudge whether such conduct was or is indictable or not.

(c) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, that any conspiracy, as therein alleged whether to commit certain or any offenses or offense against the United States was entered into by any or either of the persons or person in said Indictment referred to; nor does it appear from said Indictment, or from any or either of the counts thereof that if any offense of any kind was committed by any or either of the persons therein named, such offense was anything [78] other than offense committed by a plurality of actors.

(d) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, how or why or under what circumstances, if at all, the acts charged in said Indictment and in each of the counts thereof to have been done in furtherance of the alleged conspiracy and to effect and accomplish the object thereof were, or any of them was, in furtherance of said conspiracy, or done to affect and/or accomplish the object thereof; nor does it anywhere appear from said Indictment, or from either of the counts thereof, what relation or connection, if any, existed between said acts, or any one of them, re-

ferred to in said Indictment, and in each or any of the counts thereof and the conspiracy therein alleged and charged.

(e) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom when, if at all, the hiring and retaining, or hiring or retaining, therein referred to took place or occurred.

(f) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, where within the territory of the United States, if at all, the hiring and retaining, or hiring or retaining, in said Indictment, and/or in each or any of the counts referred to, took place or occurred; or where at the time of said alleged hiring and retaining, or hiring or retaining, the person or persons alleged to have been hired and retained, or hired or retained, actually were or was.

(g) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, what fact or facts constituted the alleged hiring and retaining, or hiring or retaining therein referred to, [79] or are relied upon to constitute such hiring and retaining, or hiring or retaining.

(h) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, for or of whom, if for or of any person or prince, or foreign prince, state, colony, district or people any one of the persons alleged in said Indictment to have been hired and retained, or hired or retained, to enlist



and enter, or enlist or enter, as a soldier was a soldier.

(i) It nowhere appears in or from said Indictment, or in or from either or any of the counts thereof, nor can it be ascertained therefrom, for or of whom, or for or of any person or prince, or foreign prince, state, colony, district, or people, any one of the persons alleged in said Indictment to have been hired and retained, or hired or retained, to enlist and enter, or enlist or enter as a marine and seaman on board a vessel of war, was a marine and seaman, or marine or seaman on board a vessel of war.

(j) It nowhere appears in or from said Indictment, or from or in any or either of the counts thereof, nor can it be ascertained therefrom, whether any one of the persons referred to in said Indictment, was hired and retained, or hired or retained, or to be hired and retained or to be hired or retained, to enlist and enter the service of any foreign prince as a marine or as a seaman.

(k) It nowhere appears in or from said Indictment, or in or from any or either of the counts thereof, nor can it be ascertained therefrom, upon whose or what vessel of war any one of the persons referred to in said Indictment, was hired and retained, or hired or retained, or to be hired and retained, or to be hired or retained to enlist and enter.

[80]

## XII.

And as to and against the FIRST COUNT in said Indictment contained said defendants here repeat, set forth and allege each and all of the grounds and reasons and matters and things set forth and alleged

in the foregoing paragraphs numbered from I to XI, inclusive, and pray that the same be taken and deemed to be applied to and directed against said FIRST COUNT; and further pray that for the grounds and reasons and matters and things in said paragraphs set forth and alleged that this motion in arrest of judgment upon said FIRST COUNT be granted.

WHEREFORE, these defendants respectfully pray that judgment upon said Indictment and upon the first count therein contained be arrested by said court, that the above-entitled action be dismissed, that said defendants and each of them be acquitted and discharged, and that the bail of said defendants, and each of them herein, be exonerated.

J. J. DUNNE,  
WRIGHT & WRIGHT & STETSON,  
HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

Attorneys for Said Defendants.

Service of the foregoing Motion in Arrest of Judgment, and receipt of a copy thereof, are hereby admitted, this 30th day of October, 1915.

THE UNITED STATES OF AMERICA.

By JNO. W. PRESTON,  
United States Attorney for the Northern District of  
California, at San Francisco.

[Endorsed]: Filed Oct. 30, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [81]

*In the District Court of the United States, for the Northern District of California, First Division.*

No. 5750.

Convicted of Conspiring to Hire and Retain Men to Go Beyond Limits of the United States to Enlist in Service of Foreign Prince.

THE UNITED STATES OF AMERICA

vs.

RALPH K. BLAIR and THOMAS ADDIS.

**Judgment on Verdict of Guilty on the First Count of the Indictment and Not Guilty on the Second Count of the Indictment.**

Now, on this 30th day of October, A. D. 1915, the defendants Ralph K. Blair and Thomas Addis, in their own proper persons and with their counsel, J. J. Dunne, Esq., Henry G. W. Dinkelspiel, Esq., John R. Jones, Esq., and Allen G. Wright, Esq., being present in open court, come John W. Preston, Esq., United States Attorney, and move the Court that Judgment be pronounced in this cause; whereupon the defendants were duly informed by the Court of the nature of the Indictment filed on the 8th day of July, A. D. 1915, charging them with conspiring to hire and retain men to go beyond limits of the United States to enlist in service of foreign prince; of their arraignment and plea of Not Guilty; of their trial and the verdict of the Jury on the 27th day of October, A. D. 1915, to wit:

“We, the Jury, find Ralph K. Blair and Thomas Addis, the defendants at the bar, Guilty

on the first count of the Indictment and Not Guilty on the second Count of the Indictment.

WM. H. LEAHY,  
Foreman."

The defendants were then asked if they had any legal cause to show why judgment should not be pronounced against them, and no sufficient cause being shown or appearing to the Court, and the Court having denied a Motion for New Trial and a Motion in arrest of Judgment; thereupon the Court rendered its Judgment:

THAT WHEREAS, the said Ralph K. Blair and Thomas Addis having been duly convicted in this court of the crime of conspiring to [82] hire and retain men to go beyond limits of the United States to enlist in service of a foreign prince:

IT IS THEREFORE ORDERED AND ADJUDGED that the said Ralph K. Blair and Thomas Addis each pay a fine in the sum of One Thousand (\$1,000.00) Dollars; that in default of the payment of said fine that the said Ralph K. Blair and Thomas Addis each be imprisoned until said fine be paid or until they be otherwise discharged by due course of law.

JUDGMENT ENTERED this 30th day of October, A. D. 1915.

W. B. MALING,  
Clerk.

By C. W. Calbreath,  
Deputy Clerk. [83]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the Court-room thereof, in the City and County of San Francisco, on Saturday, the 30th day of October, in the year of our Lord, one thousand nine hundred and fifteen. Present: the Honorable MAURICE T. DOOLING, District Judge.

No. 5750.

UNITED STATES OF AMERICA

vs.

BLAIR-MURDOCK CO., etc. et al.

**Minutes of Judgment.**

This case came on regularly this day for the pronouncing of Judgment upon the defendants Ralph K. Blair and Thomas Addis. Said defendants were present in court with their attorneys J. J. Dunne, Henry G. W. Dinkelspiel, John R. Jones and Allen G. Wright, Esqrs., and John W. Preston, Esq., was present as United States Attorney. Thereupon Mr. Dunne, on behalf of said defendants, presented and filed a Motion for a new trial upon said Indictment as to each of said defendants, and after hearing Mr. Dunne and Mr. Preston, the Court ordered that said Motion be, and the same is hereby, denied, and to which ruling Mr. Dunne then and there excepted and then presented and filed a Motion in Arrest of Judgment as to each of said defendants and which Motion the Court likewise ordered denied and to which ruling Mr. Dunne then and there likewise excepted.

Thereupon, after hearing Mr. Dunne and Mr. Preston, said defendants Blair and Addis were called for Judgment and asked if they had any legal cause to show why Judgment should not be pronounced herein against them and no sufficient cause being shown or appearing to the Court why such Judgment should not be entered, the Court ordered that each of said defendants pay a fine in the sum of One Thousand (\$1,000) Dollars each, and in default of the payment of said fines, said defendants, or either of them, be imprisoned in the County Jail of the County of San Francisco, State of California, until said fine, or fines, are paid, or until they, or either of them, be discharged by due process of law. Thereupon Mr. Dunne presented and filed Notice of Appeal from said Judgments to the United States Circuit Court of Appeals for the Ninth Circuit; Petition for Writ of Error; and Assignment of Errors; and after considering the same, the Court ordered that said Writ of Error be, and the same is hereby, allowed and that defendants be admitted to bail upon said Writ of Error in the sum of Two Thousand (\$2,000) Dollars, each, and that the Bond for Costs as to said Writ be, and the same is hereby, fixed in the sum of Five Hundred (\$500) Dollars. Further ordered that the Supersedeas Bond as to Ralph K. Blair, likewise presented, be, and the same is hereby, approved. Further ordered that defendants herein have until and including the 10th day of November, 1915, within which to prepare, serve and file their proposed Bill of Exceptions upon said Writ of Error. [84]

*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
sion.*

No. 5750.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT, C.  
D. LAWRENCE,

Defendants.

**Bill of Exceptions on Behalf of Defendants, Ralph  
K. Blair and Thomas Addis, Plaintiffs in Error  
Herein.**

BE IT REMEMBERED that heretofore, and on  
the 8th day of July, 1915, the Grand Jury of the  
United States in and for the Northern District of  
California, did find and return into the above-  
entitled court its Indictment against the above-  
named defendants, Ralph K. Blair and Thomas  
Addis, and others, and thereafter the said defend-  
ants, Ralph K. Blair and Thomas Addis, appeared  
in said court, and, upon being called to plead to said  
Indictment, filed in said cause and court and inter-  
posed to said Indictment, each for himself and not  
the one for the other, his Motion to Quash said In-  
dictment, as shown by the judgment-roll and record  
herein: That thereupon, and after argument of said  
Motion to Quash said Indictment, the said Court

denied the same, to which ruling said defendants Ralph K. Blair and Thomas Addis, each [85] for himself and not the one for the other, duly excepted, and now assign the said ruling as error.

Be it further remembered that heretofore, and on the 8th day of July, 1915, the Grand Jury of the United States in and for the Northern District of California, did, as aforesaid stated, find and return into the above-entitled court its Indictment against the above-named defendants Ralph K. Blair and Thomas Addis and others, and thereafter the said defendants Ralph K. Blair and Thomas Addis appeared in said court, and, upon being called to plead to said Indictment, did, after the aforesaid ruling and exception upon the aforesaid Motion to Quash said Indictment, each for himself and not the one for the other, file in said cause and court and interpose to said Indictment, his demurrer to the said Indictment as shown by the judgment-roll and record herein; and thereupon, and after argument of said demurrer to said Indictment, the said Court overruled the said demurrer, to which ruling said defendants Ralph K. Blair and Thomas Addis, each for himself and not the one for the other, duly excepted, and now assign the said ruling as error.

And be it further remembered that the said defendants Ralph K. Blair and Thomas Addis, having duly pleaded, as shown by the judgment-roll and record herein, and the cause being at issue, the same came on for trial before the Honorable M. T. Dooling, District Judge, on Monday, October 18, 1915, the United States of America being represented by



John W. Preston, Esq., United States Attorney for the Northern District of California, and the defendant Ralph K. Blair being represented by J. J. Dunne, Esq., and Wright & Wright [86] & Stetson, and the defendant Thomas Addis being represented by Henry G. W. Dinkelspiel, Esq., and John R. Jones, Esq., the following proceedings were had:

**[Proceedings Had October 18, 1915.]**

Mr. PRESTON.—May it please the Court, before proceeding further with this matter, I think it is due to the Court that we explain to you the situation we find ourselves in this morning.

The defendants are all here in court, and are represented by their respective attorneys, Messrs. Dunne, Wright & Wright & Stetson, Dinkelspiel and Jones. This is a case of considerable importance, and in order that the matter may be properly and expeditiously tried and determined, that is, on the questions of law involved, counsel have stipulated as to what the facts are in this case, with the further proviso that this Court may pass upon the sufficiency of the facts, or the insufficiency thereof, and may either direct or intimate to the jury its opinion in the matter, the consent of the defendants being that the jury shall follow the Court's intimation or opinion after a consideration of these stipulated facts. That procedure simply means, if carried out, that this jury is here by agreement to follow the opinion of the Court as to the sufficiency or insufficiency of the facts in this case. For that reason, I presume,—if the Court will accept this onerous burden—the matter of a jury will be more or less perfunctory,

and if the Court is willing to undertake the matter in that form, the stipulation of facts is ready: I have examined the law a little bit, and while I think that in the absence of a stipulation it is doubtful whether a Judge could instruct any kind of a verdict, I think it is proper, if the Court will allow us to ask the jurors if they would be willing to follow the opinion of the Court after it is submitted.

The COURT.—Perhaps that is no more than asking the Court to pass on the sufficiency of the facts to warrant a conviction, is it? [87]

Mr. PRESTON.—That is exactly what it means. The provision of the stipulation is, “The parties hereby agree that the facts hereinafter set forth are and may be treated as the facts in the cause, and that upon a consideration of said facts, the Court may instruct the verdict which the jury shall render in said cause.”

The COURT.—The proceeding is probably a little unusual, but whatever satisfies counsel satisfies the Court.

Mr. PRESTON.—Well, I now have the signature of all the counsel.

Mr. DUNNE.—The position we take, your Honor, is entirely in line with the stipulation.

The COURT.—All right, I suggest, then, that the jury be empaneled. Of course, I desire to hear counsel's views on the sufficiency of the matter.

Mr. PRESTON.—We take it that after the jury is empaneled, they may be dismissed and brought back when your Honor is ready to decide the matter.

The COURT.—Yes.

Mr. DUNNE.—We pass the jury, sir.

The COURT.—Swear the Jury.

Thereupon A. Moench, William J. Donnelly, J. H. McNutt, Charles H. Victor, William F. Barton, R. W. Costello, William H. Leahy, George M. Dodge, J. W. Kane, Henry C. Norton, Geo. E. Tucker, A. S. Mangrum were duly impaneled and sworn to try the cause; and thereupon the following proceedings took place:

Mr. PRESTON.—I will furnish the Court with a copy of our statement so that you may follow me when I read it:

Gentlemen of the Jury, I will now read to you the Agreed Statement of Facts. This is on Indictment No. 5750, the conspiracy indictment. It reads as follows:

#### AGREED STATEMENT OF FACTS.

In the above-entitled matter, the parties hereby agree that the facts hereinafter set forth are, and may be, [88] treated as the facts in the cause, and that upon a consideration of said facts the Court may instruct the verdict which the jury shall render in said cause:

#### FACTS.

1. That the Kingdom of Great Britain and her allies were, at all times herein mentioned, and at all times subsequent to August 1st, 1914, in state of war with the German Empire and her allies.

2. That His Majesty, the King of Great Britain and Ireland, was at all times herein mentioned, desirous of the return to Great Britain of British subjects for employment in the army and navy and in

the various branches of the national service of all kinds.

3. That the said Kingdom of Great Britain does not have now, and did not have at the times herein mentioned, any law or laws providing for compulsory service of its subjects in either its army or navy.

4. That the men whose names are mentioned in the Indictment, concerning whom the defendants are alleged to have conspired in violation of sections 37 and 10 of the Federal Penal Code, were not, nor was either or any of them, members of the Reserve of the British army or navy.

#### I.

5. That at all of the times herein mentioned, A. Carnegie Ross was, and still is, His Britannic Majesty's Consul-General at San Francisco, in the State and Northern District of California.

#### II.

6. That at the outbreak of said above-mentioned war, the said A. Carnegie Ross, Consul-General as aforesaid, acting for and on behalf of His Majesty's Government, did, [89] on August 3d, 1914, cause to be published in the two daily morning newspapers of general circulation and published in said City and County of San Francisco, to wit, "The San Francisco Examiner," and "The San Francisco Chronicle," an advertisement, a copy of which is hereto attached and marked exhibit "A."

7. Also, that a news item appeared in said papers at the same time, a copy of which is hereto attached and marked exhibit "B."

8. That a large number of people responded to

said notices, only about six of whom were in fact Reserves.

III.

9. That likewise said A. Carnegie Ross did, during all the times intervening between August 1st, 1914, and March 18th, 1915, cause to be kept a book or register, upon which were entered the name and address of *persons call* at the Consulate to inquire concerning military service, which said book or register is hereby filed and made a part of this statement, and is hereby designated as exhibit "C" hereto.

IV.

10. That said A. Carnegie Ross did, on or about March 15th, 1915, procure the services of the defendants Ralph K. Blair and Thomas Addis, and also of one W. K. Harris (not now in the United States), who, at San Francisco, in the State and Northern District of California, did the acts and things herein set forth as done by them.

11. That defendants Blair and Addis, and said Harris, on March 18th, 1915, rented and furnished room 59 of the Sherwood Building at 21 Pine Street in the City and County of San Francisco as an office, under the name of [90] the "British Friendly Association," said furniture being rented from the Indianapolis Furniture Company.

12. That on May 27th, 1915, said defendants Blair and Addis removed said office to 68 Fremont Street in said City and County of San Francisco, and returned said furniture.

13. That one W. K. Harris was in charge of said

office until its removal aforesaid, after which defendant Ralph K. Blair was in charge thereof.

14. That letter-heads were printed for the use of said British Friendly Association, and the same were used by said Harris to the knowledge of defendants Blair and Addis in its correspondence, and other business transactions, one of which said letter-heads, together with one of the letters of said association, are hereto annexed and made a part hereof, and hereby designated as exhibit "D" hereto.

15. That the British Friendly Association was an unincorporated concern, and was organized with the consent of the above-named Consul-General, and was composed of the said two defendants Blair and Addis, and said Harris.

16. That the expenses of said organization were paid from the funds of the British Government, through said Consul-General.

17. That said British Friendly Association had no other business, and was organized for no other purpose than to facilitate the transportation to New York, of British subjects, sound in body and limb.

18. That when said association opened its office at 21 Pine Street, the said register above referred to, was, by said Consul-General, to the knowledge of defendants Blair [91] and Addis, temporarily entrusted to said W. K. Harris, accompanied by the following instructions, to wit:

"1. To send only British subjects who had military training.

"2. To make no engagements of any description whatever.

“3. To give no pay or advance.

“4. To make no solicitation.

“5. Not to send more than 50 men at a time.

“6. To require such proof of British nationality as such men are usually able to give.

“7. They were to give no information as to pay, allotments, etc.

“8. The men were to be examined to see if they were physically suitable.”

And said register continuously remained in the possession of said Harris until on or about May 27th, 1915, when it was turned over by him, to the defendant Blair in whose possession said register remained until returned by said Blair to said Consul-General, and by him voluntarily offered for the purpose of this Agreed Statement of Facts. Said Harris left the State of California on May 27th, 1915.

19. That said Harris, to the knowledge of defendants Blair and Addis, caused to be opened correspondence and communications with the parties named on said register.

20. That the said Consul-General, and the attaches of said Consulate, referred inquiring individuals to the defendant Ralph K. Blair, giving them the street number of said British Friendly Association.

21. That there was printed for the use of said British Friendly Association, blank receipts in a form as follows: [92]

\$..... San Francisco, ....., 1915.

Received from R. K. Blair \$..... for sustenance while in San Francisco awaiting departure and \$9.10

for sustenance during trip to New York.

.....

Also blank cards in a form as follows:

Name.....No.....  
 Address.....Age.....  
 Birthplace.....  
 Present occupation.....  
 Previous Occupation and Experience at Home or  
 Elsewhere.....  
 Have you any family here?

22. That on May 6th, the defendant Blair, with funds of the British Government, furnished through the Consul-General as aforesaid, purchased eight tourist railroad tickets through the firm of Thos. Cook & Sons, a corporation, over the Santa Fe Railway and connecting railroads, with destination New York, paying therefor the sum of \$516.80.

23. That on May 18th, 1915, the defendant Blair, with funds of the British Government furnished through the Consul-General as aforesaid, purchased twelve tourist railroad tickets through the firm of Thos. Cook & Sons, a corporation, over the Southern Pacific Company and connecting railroads, with destination New York, paying therefor the sum of \$775.20.

24. That on May 25th, 1915, the defendant Blair, with funds of the British Government furnished through the Consul-General as aforesaid, purchased eight tourist railroad tickets through the firm of Thos. Cook & Sons, a corporation, over the Southern Pacific Company and connecting railroads, with destination New York, paying therefor the sum of \$516.80.



25. That on June 8th, 1915, the defendant Blair, with [93] funds of the British Government furnished through the Consul-General as aforesaid, purchased thirty tourist railroad tickets through the firm of Thos. Cook & Sons, a corporation, over the Southern Pacific Company and connecting railroads, with destination New York, paying therefor the sum of \$1,938.00.

26. That on June 15th, 1915, the defendant Blair, with funds of the British Government furnished through the Consul-General as aforesaid, purchased twenty-seven tourist railroad tickets through the firm of Thos. Cook & Sons, a corporation, over the Southern Pacific Company and connecting railroads, with destination New York, paying therefor the sum of \$1,744.20.

27. That on June 15th, 1915, the defendant Blair, with funds of the British Government furnished through the Consul-General as aforesaid, purchased one first-class railroad ticket through the firm of Thos. Cook & Sons, a corporation, over the Southern Pacific Company and connecting railroads, with destination New York, paying therefor the sum of \$76.60.

28. That on June 21st, 1915, the defendant Blair, with funds of the British Government furnished through the Consul-General as aforesaid, purchased five tourist railroad tickets through the firm of Thos. Cook & Sons, a corporation, over the Southern Pacific Company and connecting railroads, with destination New York, paying therefor the sum of \$323.00.

29. That each of the above tickets was used in transporting men who claimed to be British subjects, and who claimed to have done service in time past in either the army or the navy of Great Britain, and who had stood a physical [94] examination by the defendant Thomas Addis, a physician.

30. That some of said tickets were used in transporting to New York the men whose names are set forth in the Indictment.

31. That the said British Friendly Association caused to be transported in the manner set out above one hundred and fifty-five men.

32. That each of said men whose names are mentioned and set forth in the Indictment, other than the defendants, signed a receipt, the originals of which are herewith annexed and collectively are designated as exhibit "E" hereto.

33. That for (and not by) each of said men, there was filled out one of said cards above set forth, which said cards for the parties named in the Indictment, are hereunto attached and designated as exhibit "F" hereto.

34. That for the purpose of the orderly transportation of said men, it was necessary to provide board and lodging for them, both pending physical examination, and after examination and pending transportation; and such board and lodging was accordingly provided, and the expense thereof paid by the British Government in the same way and manner as other expenses herein referred to, were paid.

35. That for this purpose, the defendant, Blair, prior to the transportation of men named in the

Indictment, made a contract with a firm at 735 Harrison Street, San Francisco, known as the Workingmen's Aid, in charge of a man named Henry Smith, to board and lodge men at the rate of \$3.50 per week.

36. Defendant H. C. Lane, claiming to act for and on behalf of defendant Blair, also made arrangements with a [95] Mrs. Lee of 735A Harrison Street, San Francisco, to lodge men—as many as 20 or 25 at a time—at \$1.25 each per week.

37. That some of the men named in the Indictment boarded and lodged at these places and the expense was paid by the British Government in the same way and manner as other expenses herein referred to, were paid.

38. That an unknown person at certain times stood near the entrance at 68 Fremont Street, in the City and County of San Francisco, and instructed applicants as to the necessary requirements before they could be transported; but it is admitted that if Blair and Addis took the stand and testified herein under oath, they would testify that the same was done without their knowledge or authority.

39. That the defendant Kenneth Croft was the party designated by said defendant Blair to hold the tickets and sustenance money upon the transportation of the twenty-seven men (the parties named in the Indictment being among said twenty-seven men) who left on June 16th, 1915, destined for New York. That one Seamens performed a similar service on a prior occasion.

40. That the sum of \$9.10 advanced to each man was not paid to said men direct, but was delivered in

bulk to defendant Croft, who gave it out 50 cents and \$1.00 at a time on the trip as they journeyed to New York.

41. The party was detained at Chicago by special agents of the United States, but after being interviewed by those officials, the party proceeded to New York, and while in Chicago, defendant Croft sent the following telegrams that were received by defendant Blair: [96]

“B146 CH 22 Chicago Ill 19-1121 A. M.

RKBLAIR

British Friendly Ass 68 Fremont San  
Francisco

Held up here by Federal authorities for investigation Need further funds for parties sustenance Wire Hundred Room Eight Five Nine Federal Building.

KENNETH CROFT.”

“297 D 11 Collect Chicago Ill. 412 PM 19

R. K. BLAIR

British Friendly Association.

Sixty Eight Fremont Street San Fran-  
cisco Calif

Party twenty three strong proceeded New York three PM Following later.”

“C274 CHVN 5 ONL

SP Chicago Ills June 20, 1915

R. K. Blair

68 Fremont St San Francisco Cal

Looked for word responding my wires reporting detention and final satisfactory dispatch of party Papers here full of matter and news

sent New York mentioning me prominently making procedure through New York impossible for me owing to personal matter I spoke about consequently remaining here till can make arrangements Will write fully.

CROFT 1047P''

42. That this party of men arrived in New York on June 22d, 1915.

43. Later, and on the next day, some of this party appeared before a man called Captain Roche at the British Consulate at 17 State Street, in New York, where a second physical examination was had and where those passing this examination were handed an empty envelope similar to the one hereto attached and marked exhibit "G," which was to be exchanged at the dock for a steamship ticket to Liverpool, England.

44. That all British soldiers and seamen, whether Colonial or otherwise, receive a daily pay and may receive pensions and allotments after service is terminated. These facts were known both to the defendants and to the transported men, except that said rate of daily pay, or whether the same had been increased, was not known to any of the defendants.

[97]

45. It was a fact that the defendants Blair and Addis supposed, believed and presumed that the transported men would enlist in the military or naval service of Great Britain, and it was the individual intent of a majority of said transported men, to enlist in such service.

46. The party named in the indictment as Frank G. Cook was an American citizen, but never was in

the military or naval service of Great Britain, and he, the said Frank G. Cook falsely stated to said defendants Blair and Addis that he was a British subject, born in Dublin, Ireland; that he had served in the Summerset Light Infantry, a military organization, in the military service of Great Britain, and he, the said Frank G. Cook, while detained at Chicago by the officials of the United States as aforesaid, falsely stated to them that he was a British subject born in St. Johns, New Brunswick, Dominion of Canada, and that he had served as a soldier in the Canadian Dragoons, a military organization, in the military service of Great Britain.

47. William Stables was, at the time of his transportation, an enlisted man of the American army, but was a British subject and he stated to the defendants Blair and Addis that he had served as a soldier in the 4th King's Own Royal Lancaster Regiment, a military organization, in the military service of Great Britain, and falsely represented that his occupation at that time was the civilian occupation of a painter, and that his residence at that time was Pengrove, California, and the fact that he, the said William Stables, was at that time a soldier in the American army, was concealed by him, and was wholly unknown to said defendants. [98]

48. Robert Johnson was formerly an enlisted man of the American Navy under the name of Watson, but is a British subject, and was a deserter from the British Navy.

49. All other parties named in the Indictment are, so far as known, British subjects.

50. The defendants are each British subjects, but none of them are Reserves.

51. That the funds advanced were by check of A. Carnegie Ross upon an account at the Canadian Bank of Commerce of San Francisco, and made payable to either Ralph K. Blair or the defendant Blair-Murdock & Co., a corporation.

52. That defendant Blair deposited some of the funds in his own name at the Bank of California, a San Francisco corporation, and some in the name of Blair-Murdock & Co., at the same bank, and checked on the accounts accordingly.

53. That no other proof of the military or naval service of the men whose names appear in the Indictment, was required or produced, than what appears from the statement furnished by said men and appearing on the cards herewith, and designated exhibit "F."

54. In the following countries: The German Empire, the French Republic, the Austria-Hungary Monarchy, the Kingdom of Italy, the Russian Empire, and the Kingdom of Servia, there are now, and at all the times in the Indictment mentioned were, laws enforced for the compulsory service of their subjects in their armies and navies, and the subjects of those countries in the United States of America, have heretofore, and during the times in said Indictment mentioned, returned freely from the United States of America to [99] their countries for military service as required by their respective laws, and have been aided and assisted thereunto by their respective consular and diplomatic officers.

55. At none of the times mentioned in said Indictment, was it expressly said by defendants, or any of them, in words to any of the men transported to New York, that they, the said transported men, should enlist or enter themselves in the service of Great Britain as soldiers, sailors or marines.

56. Nothing herein contained is, or shall be, construed as any waiver, surrender, qualification, limitation, or restriction of the right to remove this cause by writ of error to an Appellate Court; but on the contrary, such right to remove this cause to an Appellate Court by writ of error, shall be and is hereby preserved in all respects.

THE UNITED STATES OF AMERICA.

By JNO. W. PRESTON,  
United States Attorney.

ALL OF THE DEFENDANTS (except  
THOMAS ADDIS),

By J. J. DUNNE,  
WRIGHT & WRIGHT & STETSON,  
Their Attorneys.

THOMAS ADDIS.

By HENRY GEO. DINKELSPEIL,  
JOHN R. JONES,

His Attorneys. [100]

**U. S. Exhibit "A"—Notice.**

His Majesty, King George the Fifth, has issued a proclamation ordering that the Royal Naval Reserve be called into actual service.

Notice is hereby given that all men in the Royal Naval Reserve who are absent from the British Islands are liable to serve in the British Navy if



called upon by the officer commanding any of His Majesty's ships.

Royal Naval Reserve men serving in merchant ships abroad are to report themselves to the senior British Naval Officer at whatever port they may be at; failing that, to the first British Naval Officer they may meet or to the nearest Registrar of Naval Reserve on arrival in the British Isles.

Royal Naval Reserve men abroad not serving in merchant vessels are to report themselves to the nearest British Naval, Consular or Colonial Officer forthwith.

A. CARNEGIE ROSS,  
H. B. M. Consul-General.

August 2, 1914.

"S. F. Examiner," Aug. 3d, 1914. [101]

**U. S. Exhibit "B"—Reservists of Britain Report at Consulate.**

The news that the government of Great Britain had summoned all naval reserves to immediately report for duty excited the greatest interest and patriotism yesterday amongst the many thousands of Great Britain's subjects who are resident in San Francisco. Great numbers of naval reservists reported within a few hours at the consulate in the Hansford Building in Market Street.

The order for mobilization of the reserves was received by Consul-General A. Carnegie Ross at noon and was immediately published in the extra editions of the newspapers. The instructions received take the form of a special admiralty order calling on all reserves of the Royal British Navy immediately to

report to their senior British naval officer, or failing that, to the first British naval officer they meet. Those not aboard a ship are to report forthwith to the British Consulate.

“S. F. Examiner,” Aug. 3d, '14. [102]

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*In the District Court of the United States in and for the Northern District of California, First Division.*

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY, a Corporation,  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Stipulation as to U. S. Exhibit “C.”**

In the above-entitled action it is hereby stipulated and agreed by and between the parties, that exhibit “C” now attached to and a part of the “Agreed Statement of Facts” now on file herein and incorporated in the Bill of Exceptions herein, need not be printed in full in the transcript of record hereafter to be prepared and filed upon Writ of Error in the above-entitled action in the Circuit Court of Appeals for the Ninth Judicial Circuit; but the original document itself, marked and used as said exhibit “C,” shall be sent up to said Circuit Court of Appeals and filed in the office of the Clerk thereof along with the above-mentioned transcript of record

and may be referred to in all respects and to all extents as if the said exhibit "C" had been printed in full in said transcript of record; and it is further stipulated and agreed between said parties that this stipulation shall be printed in and as part of said transcript of record in place and stead of said exhibit "C."

UNITED STATES OF AMERICA,  
Plaintiff,

By JNO. W. PRESTON,

United States Attorney for the Northern District of  
California at San Francisco.

RALPH K. BLAIR,  
Defendant.

By J. J. DUNNE,

ALLEN G. WRIGHT,  
His Attorneys.

THOMAS ADDIS,  
Defendant.

By HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

His Attorneys.

Dated, November 17, 1915.

[Endorsed]: Filed Nov. 17, 1915. W. B. Maling,  
Clerk. By T. L. Baldwin, Deputy Clerk. [103]

[U. S. Exhibit "D"—Letter Dated March 31, 1915,  
from W. K. Harris to Herbert Ernest Dakin.]

BRITISH FRIENDLY ASSOCIATION.

59 Sherwood Building,  
21 Pine Street,  
San Francisco, California.

Wed., 31st March 1915.

Dear Sir:

I have just heard from the Doctor, asking me to cancel the appointments made for this evening, as he is unable to attend. I am very sorry to have to put you off; but if I do not hear to the contrary, I shall take it for granted that you will be along tomorrow (Thursday) evening, at eight o'clock,—Pine Street entrance.

Faithfully,  
W. K. HARRIS.

Mr. HERBERT ERNEST DAKIN

2416 Washington Street,  
San Francisco. [104]

[U. S. Exhibit "E"—Receipts.]

\$12.80 San Francisco, June 16, 1915.

Received from R. K. Blair \$3.70/100 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

WM. V. GRENNEY.

\$11.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$2.00 for sustenance

while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

HORACE SAGE.

\$9.95 San Francisco, June 16, 1915.

Received from R. K. Blair \$.85/100 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

RUDOLPH DUNCAN.

\$15.60 San Francisco, June 16, 1915.

Received from R. K. Blair \$6.50/100 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

J. L. STANLEY.

\$9.95 San Francisco, June 16, 1915.

Received from R. K. Blair \$.85/100 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

FRANK G. COOKE. [105]

\$14.60 San Francisco, June 16, 1915.

Received from R. K. Blair \$5.50/100 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

PATRICK CASEY.

\$10.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$1.00 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

PATRICK DEVLIN.

\$16.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$7.00 for sustenance while in San Francisco awaiting departure and \$9.10

for sustenance during trip to New York.

HUGH McCUBBIN.

\$14.10                      San Francisco, June 16, 1915.

Received from R. K. Blair \$5.00 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

HARRY GORMAN.

\$13.60                      San Francisco, June 16, 1915.

Received from R. K. Blair \$4.50 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

HARRY ALBUTT. [106]

\$13.60                      San Francisco, June 16, 1915.

Received from R. K. Blair \$4.50 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

W. BERKETT.

\$10.10                      San Francisco, June 16, 1915.

Received from R. K. Blair \$1.00 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

JAMES SMITH.

\$11.10                      San Francisco, June 16, 1915.

Received from R. K. Blair \$2.00 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

WM. STABLES.

\$18.85                      San Francisco, June 16, 1915.

Received from R. K. Blair \$9.75 for sustenance while in San Francisco awaiting departure and \$9.10

for sustenance during trip to New York.

JAMES B. SULLIVAN.

\$12.60 San Francisco, June 16, 1915.

Received from R. K. Blair \$3.50, for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

JAMES T. WILSON. [107]

\$13.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$4.00/100 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

EDMOND SUALTROUGH.

\$12.60 San Francisco, June 16, 1915.

Received from R. K. Blair \$3.50 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

JO. McDONOUGH.

\$10.35 San Francisco, June 16, 1915.

Received from R. K. Blair \$1.25 for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

PAUL E. WILKINS.

\$9.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$— for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

ROBERT JOHNSON.

\$9.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$— for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

HARRY BOYD. [108]

\$9.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$—— for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

W. JOLLY.

\$9.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$—— for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

J. D. STEEN.

\$9.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$—— for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

E. PURTELL.

\$9.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$—— for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

F. BOND.

\$9.10 San Francisco, June 16, 1915.

Received from R. K. Blair \$—— for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.

CLAUDE R. HILL. [109]

[U. S. Exhibit "F"—Cards.]

Name—HARRY ALBERT.	June 16	1.00
		1.00
Address—Burlingame Country Club.	No.	1.00
		.50
Birthplace—London.	Age 38	.50
		.50



Present Occupation—  
Previous Occupation and Experience at Home or  
Elsewhere—A. S. C.

Have you any family here?

Name—W. BERKETT. June 16

Address— No.

Birthplace—Baringfurness. Age 35

Present Occupation—

Previous Occupation and Experience at Home or  
Elsewhere—11th Hussars. 7 years. Corporal.

Have you any family here?

Name—HARRY BOYD. J. 16.

Address—292 14th St. No.

Birthplace—London. Age 37

Present Occupation—Barber.

Previous Occupation and Experience at Home or  
Elsewhere—R. N.

Have you any family here?

Name—PATRICK CASEY. June 16 .50

Address—St. Anthony Hotel. No.

Birthplace—Dublin, Ireland.

Present Occupation—Baker. Age 30

Previous Occupation and Experience at Home or  
Elsewhere—2d Batt. Dublin Fusileers. A. Co.

Have you any family here? [110]

Name—HARRY GORMAN. June 16 5.00

Address—Hotel Brooklyn. No.

Birthplace—Quebec, Canada. Age 34

Present Occupation—Provision Store.

Previous Occupation and Experience at Home or  
Elsewhere—Canadian M. I. Cape Colony Cycle  
Corps. Border Scouts. Capetown Highland-  
ers.

Have you any family here?

Name—W. GRENNEY. June 16

Address— No.

Birthplace—Devon. Age 24

Present Occupation—

Previous Occupation and Experience at Home or  
Elsewhere—Devon Volunteers.

Have you any family here?

June 16

Name—CLAUDE R. HILL. No.

Address—Essex. Age

Birthplace—Sydney, Australia.

Present Occupation—Shipping Clerk.

Previous Occupation and Experience at Home or  
Elsewhere—Hornsby Cadets.

Have you any family here?

June 16

Name—ROBERT JOHNSON. No.

Address—Edinburgh, Scotland. Age 26

[111]

Present Occupation—Sailor.

Previous Occupation and Experience at Home or  
Elsewhere—R. N. British Navy.

Have you any family here?

June 16

Name—W. JOLLY.

No.

Address—

Age 31

Birthplace—Northampton.

Present Occupation—

Previous Occupation and Experience at Home or  
Elsewhere—Bedfordshire Yeomanry. 3 years.

Have you any family here?

June 16

Name—H. G. LANE.

No. 32

Birthplace—Chester.

Age

Present Occupation—

Previous Occupation and Experience at Home or  
Elsewhere—Canadian N. W. Police. 3. Can-  
adian Mounted Rifles. 3.

Have you any family here?

2.50

Name—HUGH McCUBBIN.

No.

Address—Portland House, Howard  
St.

Age 43

Birthplace—Scotland (nr. Glasgow).

Present Occupation—

Previous Occupation and Experience at Home or  
Elsewhere—P. of W. Light Horse (Commis-  
sioned).

Have you any family here? [112]

June 16

Name—JO. McDONOUGH.

No.

Address—

Age

Birthplace—County Mayo, Ireland.

Present Occupation—Laborer.

Previous Occupation and Experience at Home or  
Elsewhere—88 Connaught Rangers.

Have you any family here?

June 16  
 Name—E. PURTELL. No.  
 Address—247a Carl St. Age 34  
 Birthplace—N. S. W., Australia.  
 Present Occupation—Chauffeur.  
 Previous Occupation and Experience at Home or  
 Elsewhere—S. A. Light Horse.  
 Have you any family here?

June 16 4.00

Name—EDWARD QUALTROUGH. No.  
 Address—Afton Apts. Age 27  
 Birthplace—Liverpool.  
 Present Occupation—  
 Previous Occupation and Experience at Home or  
 Elsewhere—6th Liverpool Rifles.  
 Have you any family here?

June 16

Name—JAMES SMITH. No.  
 Address—Chatham, Kent. Age 21

[113]

Birthplace—29 East Street, Chatham, K.  
 Present Occupation—Laborer.  
 Previous Occupation and Experience at Home or  
 Elsewhere—Royal Navy.  
 Have you any family here?

June 16

Name—WM. STABLES. No.  
 Address—Penngrove, Cal. Age 23  
 Birthplace—Ulverston, Lancashire.  
 Present Occupation—Painter.  
 Previous Occupation and Experience at Home or  
 Elsewhere—4th King's Own, Royal Lancaster.  
 Have you any family here?

June 16

Name—J. L. STANLEY.

No.

Address—

Age 26

Birthplace—Canada.

Present Occupation—

Previous Occupation and Experience at Home or  
Elsewhere—2 years St. Johns M. Acc.

Have you any family here?

June 16

Name—J. D. STEEN.

No.

Address—32 Sacramento St.

Age 26

Birthplace—County Tyrone, Ireland.

Present Occupation—Surveyor.

Previous Occupation and Experience at Home or  
Elsewhere—19th Alberta Dragoons.

Have you any family here? [114]

June 16

Name—JAMES T. WILSON.

No.

Address—3274 Encinal Ave., Ala-  
meda.

Age 34

Birthplace—Norwich, England.

Present Occupation—Stevedore.

Previous Occupation and Experience at Home or  
Elsewhere—4th Middlesex.

Have you any family here?

Name—F. BOND.

No.

Address—

Age

Birthplace—Clapham Junction, London.

Present Occupation—

Previous Occupation and Experience at Home or  
Elsewhere—3rd Bat. Lincolnshire Reg.

Have you any family here?

June 16

Name—HORACE SAGE. No.  
 Address—35 Pond St. Age 32  
 Birthplace—London.  
 Present Occupation—Stevedore.  
 Previous Occupation and Experience at Home or  
 Elsewhere—Royal West Canadians.  
 Have you any family here?

June 16

Name—KENNETH CROFT. No.  
 Address—Palace Hotel. Age 38  
 Birthplace—Sheerness, England.  
 Present Occupation—  
 Previous Occupation and Experience at Home or  
 Elsewhere—Actg. Q. M. 5th M. I. & Leominster Horse.  
 Have you any family here? [115]

June 16

Name—FRANK G. COOKE. No.  
 Address—150 Howard St. Age 27  
 Birthplace—Dublin, Ireland.  
 Present Occupation—Logger.  
 Previous Occupation and Experience at Home or  
 Elsewhere—Somerset, L. I.  
 Have you any family here?

June 16

Name—PATRICK DEVLIN. No.  
 Address— Age 25  
 Birthplace—Dundock.  
 Present Occupation—  
 Previous Occupation and Experience at Home or  
 Elsewhere—Navy.  
 Have you any family here?

June 16  
Name—RUDOLPH DUNCAN. No.  
Address—City Hotel. Age 26  
Birthplace—Glasgow.  
Present Occupation—Tile Layer.  
Previous Occupation and Experience at Home or  
Elsewhere—R. A. 49th Field.  
Have you any family here?

June 16  
Name—JAMES B. SULLIVAN. No. 3.00  
Address— Age 26 1.00  
1.00  
.50

Birthplace—Regina.  
Present Occupation—  
Previous Occupation and Experience at Home or  
Elsewhere—C. Battery, 2d Canadian Field Ar-  
tillery.  
Have you any family here?

June 16  
Name—PAUL E. WILKINS. No.  
Birthplace—Regina.  
Address— Age 26  
Present Occupation—Well Driller.  
Previous Occupation and Experience at Home or  
Elsewhere—Royal Mounted.  
Have you any family here? [116]

## [U. S. Exhibit "G"—Steamship Ticket.]

## WHITE STAR LINE.

New York Plymouth Cherbourg Southampton  
 New York Queenstown Liverpool.

## NOTICE.

The Company's liability, for baggage is strictly limited, but passengers can protect themselves by insurance, which may be effected at this or any of the Company's Offices or Agencies.

Your attention is specially directed to the conditions of transportation in the enclosed contract.

## III CLASS PASSAGE TICKET

For Steamship ARABIC.

Sailing Jun 23 1915

From PIERS 59-60, NORTH RIVER at 10 A. M.

Foot West 18th & 19th Street—New York.

Tickets must be stamped at the Passenger Office on Pier before going on board.

Baggage must be claimed before going on Steamer. Passengers must be on board at least one hour before sailing.

Mr. PRESTON.—(Continuing.) We ask, if your Honor please, to file this Agreed Statement of Facts and to also file the exhibits.

Mr. DUNNE.—And upon that showing as I understand it, Mr. Preston, the Government rests.

Mr. PRESTON.—That is our case.

The foregoing "Agreed Statement of Facts" and the exhibits "A," "B," "C," "D," "E," "F," and "G" thereto attached, constituted and was the whole and entire showing [117] of fact made in the above-entitled cause; and no other showing or fact or facts, save and except said "Agreed Statement of



Facts" and said exhibits attached thereto, was presented in said cause to said Court and jury or either of them; and no testimony or evidence of any character or description, whether oral or written, was received by or placed before, said Court or jury in addition to the above-mentioned "Agreed Statement of Facts" and said exhibits thereto attached.

**[Motion for Order Directing a Verdict in Favor of Defendants.]**

Mr. DUNNE.—The defendants now move the Court for an order in this cause directing a verdict on the showing made here by the Government in favor of the defendants, acquitting and discharging them from all criminal responsibility under this Indictment, and exonerating the bail of them, and of each of them.

Mr. PRESTON.—I understand that the British Embassy and that the Department of Justice are both very anxious to have this Court's opinion on this case. We set aside this week to try this case. The Court has had a considerable chance to have some idea of this case already. It seems to me that within the next day or two we ought to be able to dispose of it.

The COURT.—Yes. I was about to say that to-day is Monday and—

Mr. DUNNE.—How would Thursday do, your Honor?

The COURT.—I could give you Thursday. I have a case set for trial for Friday. This matter will have to be out of the way by that time.

Mr. DUNNE.—I feel quite confident that we can

conclude what we have to say to your Honor on Thursday. [118]

The COURT.—On both sides?

Mr. PRESTON.—Yes, I expect to file a brief that contains all I know and more, too, about the case.

The COURT.—Then that will be the understanding, that we will take up the matters contained in the stipulation and the law involved on Thursday, that the jury will be excused until they are notified to return, so far as this case is concerned.

But for the other case, gentlemen, the case that is to be tried on Friday, I shall ask the jury to return because we may not be able to get a jury out of the remainder of the panel.

The COURT.—Then, gentlemen, you will be excused until we ask you to return, so far as this case is concerned, but I will ask you to be here on Friday for another case that we will take up at that time.

Thereupon the further hearing of said cause was continued to Thursday, October 21, 1915, at 10 o'clock A. M.

And be it further remembered that thereafter, and on October 21, 1915, the aforesaid motion of the defendants in said action for an order directing a verdict in their favor upon the aforesaid Agreed Statement of Facts, and acquitting and discharging them from all criminal responsibility under said Indictment, and exonerating the bail of them, and of each of them, came on regularly for hearing before said Court; and said motion was then and there argued by counsel and submitted to said Court for its ruling thereon. [119]

Thereupon, the further hearing of said cause was duly continued until Wednesday, the 27th day of October, 1915.

And be it further remembered that on said Wednesday, October 27, 1915, said cause came on before said Court for further hearing, the jury theretofore impaneled and sworn in said cause being all present; and thereupon the following proceedings were had:

The COURT.—Are the defendants present?

Mr. DUNNE.—I believe they are, your Honor; yes, sir, they are.

### **Charge to the Jury.**

The COURT.—(Orally.) The defendants are charged in two counts with having conspired to violate Section 10 of the Criminal Code, and with having performed certain overt acts in furtherance of such conspiracy and to effect and accomplish the object thereof.

It is charged generally in the first count that they conspired to hire and retain within the territory of the United States certain persons in the indictment named, in number twenty-five, and divers other persons to the Grand Jury unknown, to go beyond the limits and jurisdiction of the United States, with the intent on the part of such persons to enlist and enter into the service of a foreign prince, to wit, the King of Great Britain and Ireland, as soldiers.

The second count avers the same facts except that it is therein stated that the intent of such persons was to enlist in the service of the King of Great Britain and Ireland as marines and seamen on board a vessel or vessels of [120] war.

Upon the impanelment of the jury, as you will remember, the case took a rather unusual turn. An agreed statement of facts was presented with the stipulation that the Court might consider such facts and the law applicable thereto and, in the language of the stipulation, "instruct the verdict which the jury shall render in said cause." Thereupon the facts agreed upon as being the facts in the case were presented to the jury, and the jury was then excused until such time as the Court would be prepared to "instruct the verdict," as provided for in the stipulation; thereafter counsel for the respective parties argued the matters involved herein before the Court, in the absence of the jury, and the Court having fully considered all the facts agreed upon, and the law applicable thereto, is now prepared so "to instruct the verdict which the jury shall render herein."

The defendants are charged with conspiracy. The section of the Criminal Code under which this charge is laid is as follows:

"Section 37. If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than ten thousand dollars, or imprisoned not more than two years, or both."

The offense against the United States which the defendants are charged with having conspired to commit is that denounced by Section 10 of the Crim-

inal Code. This section, in so far as the applicable here is as follows: [121]

“Whoever, within the territory or jurisdiction of the United States, hires or retains another person, to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district or people, as a soldier, or as a marine or seaman on board of any vessel of war, shall be fined not more than one thousand dollars and imprisoned not more than three years.”

The jury will observe that the Indictment does not aver that defendants violated this section, but that they conspired to violate it. It may not be amiss to state at the outset that Section 10 is designed to protect the Sovereignty of the United States, and could be violated as well at a time of universal peace, as it could be at a time of almost general war. In other words, it is not essential to a violation of this section that war should exist anywhere at the time of such violation, although in times of war among other nations with which this Government is at peace, a violation of the section on behalf of one of the belligerents by hiring or retaining men here to go abroad with intent to enlist in the army or navy of such belligerent and assist in carrying on the war against other nations with which this Government is upon friendly terms, might well be regarded by the Government with greater gravity, as rendering more difficult its position as a neutral power.

With these preliminary observations it may be well now to glance briefly at the facts that are complained of here. It is stipulated that the Kingdom of Great Britain and her allies were at all the times mentioned, and at all times subsequent to August 1st, 1914, in a state of war with [122] the German Empire and her allies, and that the King of Great Britain and Ireland was, at all the times mentioned, desirous of the return to Great Britain of British subjects for employment in the army and navy and in the various branches of the national service of all kinds; that Great Britain has no laws providing for compulsory military or naval service, and that the men named in the Indictment concerning whom the defendants are said to have conspired were not reserves of the British army or navy; that A. Carnegie Ross, the British Consul-General at San Francisco, at the outbreak of the war, caused to be published in the "Examiner" and "Chronicle" of this City the following notice:

#### NOTICE.

"His Majesty, King George the Fifth, has issued a proclamation ordering that the Royal Naval Reserve be called into actual service.

"Notice is hereby given that all men in the Royal Naval Reserve who are absent from the British Islands are liable to serve in the British Navy if called upon by the officer commanding any of His Majesty's ships.

"Royal Naval Reserve men serving in merchant ships aboard are to report themselves to the senior British Naval Officer at whatever port they may be

at; failing that, to the first British Naval Officer they may meet or to the nearest Registrar of Naval Reserves on arrival in the British Isles.

“Royal Naval Reserve men abroad not serving in merchant vessels are to report themselves to the nearest British Naval, Consular or Colonial Officer forthwith.

A. CARNEGIE ROSS,  
H. B. M. Consul-General.

August 2, 1914.” [123]

And that at the same time a news item appeared in said papers as follows:

“The news that the government of Great Britain had summoned all naval reserves to immediately report for duty excited the greatest interest and patriotism yesterday amongst the many thousands of Great Britain’s subjects who are resident in San Francisco. Great numbers of naval reservists reported within a few hours at the consulate in the Hansford building in Market Street.

“The order for mobilization of the reserves was received by Consul-General A. Carnegie Ross at noon and was immediately published in the extra editions of the newspapers. The instructions received take the form of a special admiralty order calling on all reserves of the Royal British Navy immediately to report to their senior British naval officer, or failing that, to the first British naval officer they meet. Those not aboard a ship are to report forthwith to the British Consulate.”

That a large number of people responded to said notices, only about six of whom were reserves; that said Consul-General on or about March 15th, 1915, procured the services of defendants Blair and Addis, and of one Harris, who rented and furnished a room in San Francisco as an office, under the name of the "British Friendly Association," the furniture therefor being rented from Indianapolis Furniture Company, and that thereafter Blair and Addis removed said office to another place in San Francisco, and returned said furniture; that Harris was in charge of said office until its removal, and Blair thereafter; that letter-heads were printed for the use of said Association, and were used by Harris, with [124] the knowledge of Blair and Addis, in its correspondence and other business transactions; that the British Friendly Association was an unincorporated concern, organized with the consent of said Consul-General, and composed of Blair, Addis and Harris, and the expenses of said organization were paid from the funds of the British Government through said Consul-General; that said Association had no other business, and was organized for no other purpose than to facilitate the transportation to New York of British subjects, sound in body and limb; that at all times between August 1st 1914 and March 18th 1915, the said Consul-General kept a register upon which was entered the names and addresses of persons calling at the Consulate to inquire concerning military service, and when said Association opened its office, the said register, was by said Consul-General, to the knowledge of defendants Blair and Ad-



dis, entrusted temporarily to said Harris, accompanied by the following instructions;

“1. To send only British subjects who had had military training.

“2. To make no engagements of any description whatever.

“3. To give no pay or advance.

“4. To make no solicitation.

“5. Not to send more than 50 men at a time.

“6. To require such proof of British nationality as such men are usually able to give.

“7. They were to give no information as to pay, allotments, etc.

“8. The men were to be examined to see if they were physically suitable.

That said register remained continuously in the possession of Harris until about May 27th, 1915, when he left the State, at which time it was turned over to defendant Blair in whose possession it remained until he returned it to the said Consul-General, who has voluntarily produced it here in Court. [125]

It appears from an inspection of said register that it is made up of twenty-three sheets of paper containing listed the names and addresses of something over 600 persons, together with a column indicating the nature of their previous military or naval services. The sheets are fastened together at one corner. Three of the sheets bear the heading “Volunteers”; eight are headed “Army Volunteers”; one is headed “Volunteers Army”; three are headed “Army Volunteers & Ex-soldiers”; two are headed

“Army Reserve”; one is headed “Royal Naval Reserve”; one bears the heading “Naval Reserve”; two are headed “Royal Naval Volunteers”; and two are headed “Volunteers for Nurses.”

The name of the defendant Blair appears under the head of “Volunteers,” and that of defendant Addis under the head of “Volunteers for Nurses.” It is further stipulated that Harris, to the knowledge of defendants Blair and Addis, opened correspondence and communications with the persons named in said register; that the said Consul-General, and the attaches of the Consulate referred inquiring individuals to the defendant Blair, giving them the address of the said association; that there were printed for the use of said association blank receipts in the following form:

“\$. . . . . San Francisco, . . . . ., 1915.

Received from R. K. Blair \$. . . . . for sustenance while in San Francisco awaiting departure and \$9.10 for sustenance during trip to New York.”,

And also blank cards as follows:

Name . . . . .	No. . . . .
Address . . . . .	Age . . . . .
Birthplace . . . . .	. . . . .
Present occupation . . . . .	. . . . .
Previous Occupation and Experience at Home or elsewhere . . . . .	. . . . .
Have you any family here? . . . . .	” [126]

That the defendant Blair with funds of the British Government, furnished through the said Consul-General, purchased at various times railroad tickets

to New York aggregating 83, for which he paid in all \$5,373.80, and that all of said tickets were used in transporting men claiming to be British subjects, and who claimed to have served in time past in either the army or navy of Great Britain, and who had passed a physical examination by defendant Addis, a physician, and that some of the tickets were used for transporting to New York the men whose names are set forth in the Indictment; that the British Friendly Association caused to be transported in this manner one hundred and fifty-five men; that each of the men named in the Indictment signed a receipt as follows:

“Received from R. K. Blair \$. . . for sustenance while in San Francisco, awaiting departure and \$9.10 for sustenance during trip to New York.” That the amounts set out in said receipts varied as to the sustenance in San Francisco, but all of them recited the receipt of \$9.10 for sustenance during the trip to New York; that for each of said men named in the Indictment there was filled out one of the cards heretofore mentioned, and all of said cards showed some previous service either in the navy or in some military organization; that pending physical examination, and after examination and pending transportation, board and lodging were provided for the men and the expense thereof paid by the British Government in the same manner that the other expenses were paid, and that for such purpose defendant Blair prior to the transportation of the men named in the Indictment made a contract with a firm at 735 Harrison Street, in San Francisco,

to board and lodge men at the rate of \$3.50 per week, and defendant [127] Lane, claiming to act for Defendant Blair, also made arrangements with a Mrs. Lee at 735A Harrison Street to lodge men—as many as 20 or 25 at a time—at \$1.25 each per week; that some of the men named in the Indictment boarded and lodged at these places and the expense thereof was paid by the British Government in the same manner; that defendant Croft was designated by defendant Blair to hold the tickets and sustenance money of twenty-seven men, among whom were those named in the Indictment, transported as aforesaid, and who left on June 16th, 1915, destined for New York; that one Seamens performed a similar service upon a prior occasion; that the sum of \$9.10 advanced to each man for sustenance while on the trip to New York was not paid directly, but was delivered in bulk to the defendant Croft, who gave it out to the men 50 cents and \$1.00 at a time during the trip to New York; that this party was detained at Chicago by Special Agents of the United States, but afterwards proceeded to New York; that while in Chicago defendant Croft sent the following telegrams, which were received by defendant Blair:

“B146 CH 22. Chicago, Ill., 19-1121 AM.

R. K. Blair,

British Friendly Ass., 68 Fremont, San Francisco.

Held up here by federal authorities for investigation Need further funds for parties sustenance Wire hundred room eight five nine Federal Building.

KENNETH CROFT.”

“297 D 11 Collect. Chicago Ills. 412 P. M. 19.

R. K. Blair,

British Friendly Association.

Sixty-eight Fremont Street, San Francisco, Calif.  
Party twenty three strong proceeded New York  
three PM. Following later.”

“C274 CHVN 5 OND.

SP. Chicago, Ills. June 20, 1915.

R. K. Blair,

68 Fremont St., San Francisco, Cal.

Looked for word responding my wires reporting  
detention and final satisfactory dispatch of party  
papers here full of matter and news sent New York  
mentioning me prominently making procedure  
through New York impossible for me owing to per-  
sonal matter I spoke about consequently remaining  
[128] here till can make arrangements will write  
fully.

CROFT. LO47P.”

That the party arrived in New York on June 22d,  
1915, and on the next day some of them appeared  
before a man called Captain Roche at the British  
Consulate, where a second physical examination was  
had, and where those passing such examination re-  
ceived an envelope which was to be exchanged at  
the dock for a steamship ticket to Liverpool, Eng-  
land; that all British soldiers and seamen, Colonial  
or otherwise, receive a daily pay and may receive  
pensions and allotments when their service is termi-  
nated. These facts were known both to defendants  
and the men transported, except that the rate of  
daily pay, or whether the same had been increased,

was not known to any of the defendants; that it was a fact that defendants Blair and Addis supposed, believed and presumed that the transported men would enlist in the military or Naval Service of Great Britain, and it was the individual intent of a majority of said transported men to enlist in such service; that among the letters written by Harris was one which was here produced. It is as follows:

“BRITISH FRIENDLY ASSOCIATION,

59 Sherwood Building,

21 Pine Street.

San Francisco, California,

31st, March, 1915.

Dear Sir:

I have just heard from the Doctor, asking me to cancel the appointments made for this evening, as he is unable to attend. I am very sorry to have him put you off; but if I do not hear to the contrary, I shall take it for granted that you will be along tomorrow (Thursday) evening, at eight o'clock,—Pine Street entrance.

Faithfully,

W. K. HARRIS. [129]

Mr. HERBERT ERNEST DAKIN,

2418 Washington Street,

San Francisco.”

That Cook, one of the men named in the Indictment, was an American citizen, but falsely stated to defendants Blair and Addis that he was a British subject, and had served in a military organization in England; that Stables, another of such men, was a British subject, but an enlisted man of the American

Army, which latter fact he concealed from said defendants; that Robert Johnson was formerly enlisted in the American Navy under the name of Watson, but is a British subject, and was a deserter from the British Navy; that all the others so far as known are British subjects; that the defendants also are all British subjects, but none of them are Reserves; that no proof of the military or naval service of the men named in the Indictment was required or produced other than what appears from the statement furnished by the men and shown on the cards before mentioned; that in the German Empire, the French Republic, the Austria-Hungarian Empire, the Kingdom of Italy, the Russian Empire and the Kingdom of Servia there have been at all the times mentioned laws enforced for the compulsory service of their subjects in their armies and navies, and the subjects of those countries in the United States, have heretofore, and during the times mentioned in the Indictment, returned freely from the United States to their countries for military service as required by their respective laws, and have been aided and assisted thereto by their respective Consular and diplomatic officers; that at none of the times mentioned in the Indictment was it expressly said by defendants, or any of them, in words to any of the men transported to New York, that they, the said transported [130] should enlist or enter themselves in the services of Great Britain as soldiers, sailors or marines.

These, then, briefly stated, gentlemen, are the facts that are before us. It remains now to consider them

in the light of the law. That some of the defendants, and particularly Blair and Addis, were acting in concert and with a well-defined purpose on their part to accomplish some certain things does not admit of doubt. Together they formed the British Friendly Association, the purpose of which was to transport to New York British subjects sound in body and limb. It is not to be conceived, and indeed all of the circumstances negative any such conception that they expected the journey of the men so transported to end at New York. The ultimate destination of these men was some point in the British Empire, and the defendants knew it, and were jointly engaged in sending them there. This phase of the case therefore presents no difficulty. The grave question is whether the defendants in doing what they did were engaged in a criminal conspiracy. They had associated themselves together to transport to New York British subjects, sound in body and limb, whose ultimate destination was England, and at least a majority of whom intended to enlist there in the military or naval service, and all of whom the defendants supposed, believed and presumed would so enlist. The language of the statute is: "Whoever within the territory or jurisdiction of the United States \* \* \* hires or retains another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, etc." It is not necessary for us to inquire here [131] just what is meant by the words "to enlist," as it is stipulated that it was the intent of a majority of the



men transported to enlist, and this must be taken to mean "to enlist" in the sense used in the statute, whatever that may be. The only difficulty that really presents itself is to determine what is meant by the words "hires or retains another person to go beyond the limits or jurisdiction of the United States." And indeed as it was the manifest purpose and intention of defendants that those sent by them from San Francisco should go beyond the limits of the United States, and as it was equally the purpose of the men so sent to go beyond such limits, our inquiry is narrowed to the ascertainment of the meaning of the words "hires or retains" as used in the statute, and to determining whether such meaning applies to the things for the doing of which the defendants were associated. To hire in its ordinary signification, and we should here seek no other means "to contract for the labor and services of, for a compensation, to engage the services of, employ for wages, salary or other consideration; to engage the interest of, agree to pay for the desired action or conduct of," and this has been the meaning of the word since it was first used in the statute in question and its predecessors. It is not essential to a hiring that the consideration be pecuniary, or that it be paid at once. In a case tried in 1855, involving the construction of this statute (*United States vs. Hertz*, 26 Fed. Cases No. 15,357), the Court instructed the jury as follows:

"The hiring or retaining does not necessarily include the payment of money on the part of him who hires [132] or retains another. He may hire or

retain a person with an arrangement that he shall pay wages when the services shall have been performed. A person may be hired or retained to go beyond the limits of the United States, with a certain intent, though he is only to receive his pay after he has gone beyond the limits of the United States with that intent. Moreover, it is not necessary that the consideration of the hiring shall be money. To give a person a railroad ticket, that cost \$4.00, and board and lodge him for a week is as good, as a consideration for the contract of hiring, as to pay him the money with which he could buy the railroad ticket and pay for his board himself." And in an exhaustive opinion rendered by Attorney-General Cushing in that same year is found the following:

"It is possible, that he may have supposed that a solemn contract of hiring in the United States is necessary to constitute the offense. That would be a mere delusion. The words of the statute are 'hire or retain.' It is true, our act of Congress does not expressly say, as the British Act of Parliament does, 'whether any enlistment money, pay, or reward shall have been given or not'; nor was it necessary to insert these words. A party may be retained by verbal promise, or by invitation for a declared or known purpose. If such a statute could be evaded or set at naught by elaborate contrivances to engage without enlisting, to retain without hiring, to invite without recruiting, to pay recruiting money in fact, but under the name of board, passage money, expenses or the like, it would be idle to [133] pass acts of Congress for the punishment of this or any

other offense." I have adopted these quotations because they seem to me to state accurately the meaning of the law, to be well within its terms, and to afford the only construction that will render it effective for the purpose for which it was intended.

It must be observed that the prohibition of the statute is not aimed at the hiring or retaining by or of citizens of this country alone, but at the hiring or retaining by any person whomsoever of any other person. It is to be observed further that the hiring or retaining must be to go without the limits of this country with intent to enlist. The fact that other countries, having laws for compulsory military service, have assisted their subjects in this country to return to their native land is a false quantity here, and one with which we have nothing to do. It throws no light upon the questions which we are to consider. The case on trial must be determined upon its own particular facts without regard to what has been done either here or elsewhere by persons not included in the present Indictment. Nor is there here involved any question as to the right of individuals to go from this country either singly or in groups to another country with intent there to enlist. The sole question here is, do the facts before us show a conspiracy on the part of defendants to violate the statute which we have been considering.

What are the salient acts? The King of Great Britain and Ireland was desirous of the return to his Kingdom of British subjects for employment in the army and navy and in various branches of the national services of all kinds, [134] and the Brit-

ish Consul-General at San Francisco caused to be published a notice calling into actual service the Royal Naval Reserve. A large number of persons responded, a few of whom were in fact reserves. The Consul-General, however, kept a register of all persons calling on him to inquire concerning military service, and upon this register were the names and addresses of over 600 individuals under various headings, such as "Volunteer Army Volunteers," "Army Volunteers and Ex-soldiers," "Army Reserve," "Royal Naval Volunteers," and "Volunteers for Nurses." The defendants Blair and Addis, with one Harris, with the consent of the Consul-General organized the British Friendly Association, and these lists were turned over to Harris, who was in charge of the office of the Association, and who with the knowledge of Blair and Addis opened correspondence with the persons whose names were upon the lists. After Harris left the lists were in the custody of Blair, whose name appeared on one of them under the heading "Volunteers." The men who came to the Friendly Association's office were examined as to their physical condition by defendant Addis, who is a physician, and whose name is on the list of "Volunteers for Nurses." All the expenses were paid with the money of the British Government furnished through the Consul-General, who when he turned the lists over to Harris accompanied them with the instructions: "To send only British subjects with military training," "to make no engagements of any description whatever; to give no pay or advance"; "to make no solicitation"; "not to

send more than 50 men at a time"; "to require such proof of British nationality as such men are usually able to give"; "to give no information as to *to* pay, allotments, etc," [135] and "to examine the men to see if they were physically suitable." It would be taxing credulity to the utmost to urge that with the lists and instructions, the defendants did not know that what was sought by the Consul-General was men who would go to England there to enlist in the military or naval service. They were "to give no pay or advance." It is not stated "pay or advance for what." They were "to make no engagements of any description whatever." It is not stated in the instructions what they were to do in this regard, but they were to examine the men to see if they were suitable, and to send them on, not more than 50 at a time. Evidently while under the instructions they could make no engagements, they certainly could come to some understanding with the men that they should be sent forward for some purpose for which, after a physical examination they were found to be "suitable." They were "to give no information as to pay, allotments," etc., "pay or allotments for what?" The instructions do not state, but the facts show that all British soldiers and seamen receive a daily pay and may receive pensions and allotments after their service is terminated, and that this was known both by defendants and by men transported. The men pending and after examination were kept at boarding and lodging houses until a sufficient number was assembled for "orderly transportation." All this was designed, and defendants

knew it, to secure men to return to Great Britain and enlist. They examined the men, boarded them, lodged them, transported them in squads to New York, where they expected them to report to the British Consul for further examination and further transportation. Defendants knew what they expected the men to do, and the men in turn [136] knew what was expected of them. Defendants, in the language of the stipulation, supposed, presumed and believed that the men would go to England and there enlist in the military or naval service, and a majority of the men intended to do so. They were furnished board, lodging and transportation for that reason alone. The offer of defendant was, even though never put into words, "if you men, having been found after examination, physically suitable, will go to England and enlist, we will furnish you with board and lodging while you are here awaiting examination and transportation, and we will furnish you with transportation to New York, and sustenance during the trip." And this offer the men accepted by submitting to examination, by accepting board, lodging, sustenance and transportation, with the intent in the majority of them at least to do the thing desired. It would be to look onto to the form in utter disregard of the substance to accept as a sufficient response to all these facts the statement that at no time did defendants or any of them expressly say in words to any of the men that they should enlist in the service of Great Britain as soldiers, sailors or marines. Just as it would be to regard the form alone and disregard the substance

to believe, in view of all the facts, that when the Consul-General turned over to Harris of the Friendly Association the lists of so-called "Volunteers," with the manifest intention that they should be used, the instructions accompanying them were designed for any other purpose than to secure here men to go beyond the limits of the United States for enlistment, without appearing to have violated the law; to accomplish in fact the results against which our statute is directed, and to do the things therein [137] forbidden without appearing to do so. While, therefore, it may be true that they believed they were acting within the law, I am of the opinion, for the reasons stated, that some of the defendants did enter into the conspiracy as charged in the Indictment, and that defendant Blair for the purpose of effecting the object thereof committed some of the overt acts charged.

There is no evidence to connect defendant Blair-Murdock Company, or defendant Lawrence with this conspiracy. The defendants Croft and Lane participated in it, but the Government does not ask for a verdict against them, and it was so stated in open court. Because of such statement, the case was not argued for them by their counsel. Under these circumstances it would be manifestly unfair to direct a verdict against them. There is before the Court a motion on behalf of all the defendants to direct a verdict in their favor. This motion will be granted as to Blair-Murdock Company and C. D. Lawrence for lack of evidence, and as to Harry G. Lane and Kenneth Croft for the reasons above suggested. As

to defendant Ralph K. Blair and Thomas Addis it will be granted as to the second count and denied as to the first. This, for the reason that while defendants are charged in two counts, there was in reality but one conspiracy. As it appears that most of the men named in the Indictment claimed to have formerly served in the army I shall confine the adverse verdict to the first count.

The jury will, therefore, in accordance with the stipulation of the parties and these instructions, render a general verdict of not guilty as to defendants Blair-Murdock Company, C. D. Lawrence, Harry G. Lane and Kenneth Croft. As [138] to the defendants Ralph K. Blair and Thomas Addis you will return a verdict of guilty upon the first count and not guilty upon the second.

**[Exceptions to Charge of Court to Jury.]**

Mr. DUNNE.—If your Honor please, under the rule, and while the jury is still at the bar, we wish to note our exceptions to the charge of the Court to the jury; and in that behalf except to the following matters contained in said charge, that is to say:

That the District Court erred in charging and instructing the jury impanelled in said cause that: “It may not be amiss to state at the outset that section 10 is designed to protect the sovereignty of the United States, and could be violated as well at a time of universal peace, as it could be at a time of almost general war. In other words, it is not essential to a violation of this section that war should exist anywhere at the time of such violation, although in times of war among other nations with which this



Government is at peace, a violation of the section on behalf of one of the belligerents by hiring or retaining men here to go abroad with intent to enlist in the army or navy of such belligerent and assist in carrying on the war against other nations, with which this Government is upon friendly terms, might well be regarded by the Government with greater gravity, as rendering more difficult its position as a neutral power"; and therein did misdirect said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that: "Some of the defendants, and particularly Blair and Addis, were acting in concert and with a well-defined purpose on their part to accomplish some certain things does not admit [139] of doubt. Together they formed the British Friendly Association, the purpose of which was to transport to New York British subjects sound in body and limb. It is not to be conceived, and indeed all of the circumstances negative any such conception that they expected the journey of the men so transported to end at New York. The ultimate destination of these men was some point in the British Empire, and the defendants knew it, and were jointly engaged in sending them there"; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that: "They (said defendants) had associated themselves together to transport to New York British subjects, sound in body and limb, whose ultimate destination was England, and at least a majority of whom intended to enlist there in the military or naval ser-

vice, and all of whom the defendants supposed, believed and presumed would so enlist"; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that

"And indeed as it was the manifest purpose and intention of defendants that those sent by them from San Francisco should go beyond the limits of the United States, and as it was equally the purpose of the men so sent to go beyond such limits, our inquiry is narrowed to the ascertainment of the meaning of the words 'hires or retains' as used in the statute and to determining whether such meaning applies to the things for the doing of which the defendants were associated"; and therein misdirected [140] said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"To hire in its ordinary signification, and we should here seek no other, means 'to contract for the labor and services of, for a compensation, to engage the services of, employ for wages, salary or other consideration; to engage the interest of, agree to pay for the desired action or conduct of,' and this has been the meaning of the word since it was first used in the statute in question and its predecessors. It is not essential to a hiring that the consideration be pecuniary, or that it be paid at once"; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“In a case tried in 1855, involving the construction of this statute (*United States vs. Hertz*, 26 Fed. Cases No. 15,357), the Court instructed the jury as follows:

“The hiring or retaining does not necessarily include the payment of money on the part of him who hires or retains another. He may hire or retain a person with an agreement that he shall pay wages when the services shall have been performed. A person may be hired or retained to go beyond the limits of the United States, with a certain intent, though he is only to receive his pay after he has gone beyond the limits of the United States with that intent. Moreover, it is not necessary that the consideration of the hiring shall be money. To give a person a railroad ticket, that cost \$4.00, and board and lodge him [141] for a week is as good, as a consideration for the contract of hiring, as to pay him the money with which he could buy the railroad ticket and pay for his board himself”; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“And in an exhaustive opinion rendered by Attorney-General Cushing in that same year is found the following:

“It is possible, that he may have supposed that a solemn contract of hiring in the United States is necessary to constitute the offense. That would be a mere delusion. The words of the statute are “hire or retain.” It is true, our act of Congress does not expressly say, as the British Act of Parliament does

“whether any enlistment money, pay, or reward shall have been given or not”; nor was it necessary to insert these words. A party may be retained by verbal promise, or by invitation for a declared or known purpose. If such a statute could be evaded or set at naught by elaborate contrivances to engage without enlisting, to retain without hiring, to invite without recruiting, to pay recruiting money in fact, but under the name of board, passage money, expenses or the like, it would be idle to pass acts of Congress for the punishment of this or any other offense.’ I have adopted these quotations because they seem to me to state accurately the meaning of the law, to be well within its terms, and to afford the only construction that will render it effective for the purpose for which it was intended;” and therein misdirected said jury.

That the said District Court erred in charging and [142] instructing the jury impaneled in said cause that:

“The fact that other countries, having laws for compulsory military service, have assisted their subjects in this country to return to their native land is a false quantity here, and one with which we have nothing to do. It throws no light upon the questions which we are to consider. The case on trial must be determined upon its own particular facts without regard to what has been done either here or elsewhere by persons not included in the present Indictment”; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“Nor is there here involved any question as to the

right of individuals to go from this country either singly or in groups to another country with intent there to enlist. The sole question here is, do the facts before us show a conspiracy on the part of defendants to violate the statute which we have been considering"; and therein misdirected said jury.

That the said district court erred in charging and instructing the jury impaneled in said cause that:

"It would be taxing credulity to the utmost to urge that with the lists and instructions, the defendants did not know that what was sought by the Consul-General was men who would go to England there to enlist in the military or naval service. They were 'to give no pay or advance.' It is not stated 'pay or advance for what?' They were 'to make no engagements of any description whatever.' It is not stated in the instructions what they were to do in this regard, but they were to examine the men to see if they were suitable, [143] and to send them on, not more than fifty at a time. Evidently, while under the instructions they could make no engagements, they certainly could come to some understanding with the men that they should be sent forward for some purpose for which, after a physical examination they were found to be 'suitable.' They were 'to give no information as to pay, allotments, etc.' 'Pay or allotments for what?' The instructions do not state, but the facts show that all British soldiers and seamen receive a daily pay and may receive pensions and allotments after their service is terminated, and that this was known both by defendants and by the men transported"; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“The men pending and after examination were kept at boarding and lodging houses until a sufficient number was assembled for ‘orderly transportation.’ All this was designed, and defendants knew it, to secure men to return to Great Britain and enlist”; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“They (said defendants) examined the men, boarded them, lodged them, transported them in squads to New York, where they expected them to report to the British Consul for further examination and further transportation”; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:  
[144]

“Defendants knew what they expected the men to do, and the men in turn knew what was expected of them. Defendants, in the language of the stipulation, supposed, presumed and believed that the men would go to England and there enlist in the military or naval service, and a majority of the men intended to do so; they were furnished board, lodging and transportation for that reason alone”; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“The offer of defendants was, even though never put into words, ‘if you men, having been found after

examination, physically suitable, will go to England and enlist, we will furnish you with board and lodging while you are here awaiting examination and transportation, and we will furnish you with transportation to New York, and sustenance during the trip' ”; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“And this offer the men accepted by submitting to examination, by accepting board, lodging, sustenance and transportation, with the intent in the majority of them at least to do the thing desired”; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“It would be to look onto to the form in utter disregard of the substance to accept as a sufficient response to all these facts the statement that at no time did [145] defendants or any of them expressly say in words to any of the men that they should enlist in the service of Great Britain as soldiers, sailors or marines. Just as it would be to regard the form alone and disregard the substance to believe, in view of all the facts, that when the Consul-General turned over to Harris of the Friendly Association the lists of so-called ‘Volunteers,’ with the manifest intention that they should be used, the instructions accompanying them were designed for any other purpose than to secure here men to go beyond the limits of the United States for enlistment, without appearing to have violated the law; to accomplish in fact

the results against which the statute is directed, and to do the things therein forbidden without appearing to do so"; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"While therefore it may be true that they (said defendants) believed they were acting within the law, I am of the opinion, for the reasons stated, that some of the defendants did enter into the conspiracy as charged in the Indictment, and that defendant Blair for the purpose of effecting the object thereof committed some of the overt acts charged"; and therein misdirected said jury.

That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"As to the defendants Ralph K. Blair and Thomas Addis, it will be . . . . denied as to the first"; and therein misdirected said jury.

That the said District Court erred in charging [146] and instructing the jury impaneled in said cause that: "As to the defendants Ralph K. Blair and Thomas Addis, you will return a verdict of guilty upon the first count"; and therein misdirected said jury.

That the said District Court erred in failing to charge and instruct the jury impaneled in said cause that: The knowledge of either said Ralph K. Blair or said Thomas Addis, or both of them, of any criminal conspiracy or agreement, or purpose on the part of any other person or persons, without active cooperation by said Blair or Addis, or both of them in such criminal conspiracy, agreement or purpose,



would not be sufficient to authorize or justify any finding of guilty against either said Blair or said Addis, or both of them; and in failing so to instruct and charge said jury, said court misdirected said jury.

That the said District Court erred in failing to instruct and direct said jury that not merely the bare acts of said defendants, and/or of each of them, were to be considered, but also the intention and purpose of said defendants, and/or of each of them, in doing any act or acts referred to in the agreed statement of facts on file herein should also be considered; and in failing so to instruct and charge said jury, said Court misdirected said jury.

Said District Court erred in failing to instruct and direct said jury that the intention and purpose of said defendants, and of each of them, in doing any act or acts mentioned in the agreed statement of facts on file herein were material to the issue which was then before said jury; and that unless said jury were satisfied beyond all reasonable doubt that said intention and purpose of said defendants, [147] and/or of either of them, in acting as shown in the agreed statement of facts on file herein, were criminal, and that they, or either of them, did such acts with the intention to violate the law, and did those acts with that object, then said jury could not and should not find said defendants, or either of them, guilty of any offense under the Indictment herein, or either count thereof; and in failing so to instruct and charge said jury, said Court misdirected said jury.

That the said District Court erred in failing to

instruct and direct said jury that before said defendants, or either of them, could be convicted under the Indictment, or any count thereof, the facts stated in the agreed statement of facts on file herein must be of such a character as to exclude every reasonable hypothesis but that of the defendant's or defendants' guilt of the offense charged in said Indictment, or in either count thereof; and in failing so to instruct and charge said jury, said Court misdirected said jury.

That said District Court erred in failing to instruct and direct said jury that if all the facts stated in the agreed statement of facts on file herein taken together are as compatible with innocence as with guilt, there arises a reasonable doubt requiring the acquittal of said defendants, or of each of them, or any and all offenses referred to in the Indictment herein, or in either count thereof; and in failing so to instruct and charge said jury, said Court misdirected said jury.

That said District Court erred in failing to instruct and direct said jury that his Majesty, the King [148] of Great Britain and Ireland was at all the times in the agreed statement of facts mentioned, desirous of the return to Great Britain of British subjects for employment in the army and navy, and in the various branches of the national service of all kinds; and in failing further to instruct and charge said jury that if the facts stated in said agreed statement of facts, taken together, were or are as compatible with the assisting or transporting to Great Britain of British subjects for employment in the

various branches of the national service of all kinds, as they were with the hypothesis that such subjects were hired and retained for employment or enlistment in the army or navy of Great Britain, that then neither said defendants, nor either of them, could be convicted of any offense charged in the Indictment herein, or in either count thereof, and in failing so further to charge said jury, said Court misdirected said jury.

That said District Court erred in failing to instruct and direct said jury that the acts and conduct of said defendants, and of each of them, as stated in the agreed statement of facts on file herein was and is entirely as consistent with the assisting and transporting to Great Britain of British subjects, sound in body and limb, for employment in the various branches of the national service of all kinds, as they were or are with any other theory or hypothesis; and in failing further to instruct and charge said jury that where in a given cause there are two theories or hypothesis open by which the agreed facts may be explained, one in favor of innocence, and the other in favor of a criminal course, the one in favor of innocence must be accepted and must prevail; and in failing further [149] to charge and instruct said jury that if the acts and conduct of the defendants, and of each of them, as stated in the agreed statement of facts on file herein, were as consistent with the hypothesis of assisting and transporting to Great Britain of British subjects sound in body and limb, for employment in the various branches of the national service of all kinds, as they were with the hy-

pothesis that such British subjects were assisted and transported to Great Britain for employment in the army and navy, then that said jury could not convict said defendants, or either of them, under said Indictment or either of the counts thereof, but must acquit them and each of them; and in failing so further to charge said jury, said Court misdirected said jury.

That said District Court erred in failing to instruct and direct said jury that the acts and conduct of the defendants, and each of them, stated in the agreed statement of facts, were and are explainable upon an hypothesis arising upon the face of the agreed statement of facts herein, and consistent with innocence, namely, the hypothesis that the defendants either together or separately, assisted the return to Great Britain of British subjects, sound in body and limb for employment in the various branches of the national service of all kinds; and in failing so to instruct and charge said jury, said Court misdirected said jury.

That said District Court erred in its instruction and charge to the jury impaneled in said cause by adopting in said instruction and charge, and presenting the same to said jury, an interpretation of said agreed statement of facts, and a theory of the case, in favor of [150] the guilt rather than in favor of the innocence of said defendants, and/or each of them; and in failing to instruct and charge said jury to adopt such an interpretation of said agreed statement of facts, and such a theory of this cause as would be in favor of the innocence rather than in

favor of the guilt of said defendants; and/or either of them, said Court misdirected said jury.

That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist the return to Great Britain of British subjects, sound in body and limb, for employment in the various branches of the national service of all kinds, and in failing so further to charge said jury, said Court misdirected said jury.

That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist, financially, or otherwise, the return to Great Britain of British subjects, sound in body and limb, when such assistance, whether financial or otherwise, is given to such British subjects who voluntarily present themselves and ask for assistance without disclosing their intention, and to whom assistance is given without imposing any obligation upon them to enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman; and in failing so further to charge said jury, said Court misdirected said jury.

That the said District Court erred in failing [151] to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist the return to Great Britain of British subjects,

sound in body and limb, where such assistance is given by persons who supposed, believed and presumed that such British subjects would enlist in the military or naval service of Great Britain, and where it was the individual intent of a majority of such British subjects so assisted to enlist in such service; and in failing so further to charge said jury, said Court misdirected said jury.

That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist the return to Great Britain of British subjects, sound in body and limb, even though those furnishing such assistance, supposed, believed and presumed that such British subjects, so assisted, would enlist in the military or naval service of Great Britain, and even though it was the individual intent of a majority of such British subjects, so assisted, to enlist in such service, where no obligation was imposed upon such British subjects, or upon any of them to enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman, and where no obligation was put upon the British subjects, so assisted, to go beyond the limits or jurisdiction of the United States with the intent so to enlist; and in failing so further to charge said jury said Court misdirected said jury.

That the said District Court erred in failing to [152] instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or

assist the return to Great Britain of British subjects, sound in body and limb, even though those persons furnishing such assistance, supposed, believed and presumed that such subjects, so aided and assisted, would enlist in the military or naval service of Great Britain, and even though it was the individual intent of a majority of such British subjects, so aided and assisted, to enlist in such service, unless there was, not only an obligation upon such British subjects, so aided and assisted, to enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman, or an obligation upon such British subjects to go beyond the limits or jurisdiction of the United States with the intent so to enlist, but also there was an actual engagement entered into between the persons giving such aid or assistance, and the British subjects so aided and assisted whereby such British subjects so aided and assisted, should enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman, or should go beyond the limits or jurisdiction of the United States with the intent so to enlist, such engagement being with the consent and understanding of both parties to such engagement; and in failing so further to charge said jury said Court misdirected said jury.

That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States for individuals to go beyond [153] the limits or jurisdiction of the United States with intent to enlist in foreign military

service; and in failing so further to charge said jury said Court misdirected said jury.

That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to transport persons out or beyond the limits or jurisdiction of the United States and to land them in foreign countries when such persons had an intent to enlist in foreign armies; and in failing so further to charge said jury said Court misdirected said jury.

Mr. DUNNE.—(Continuing.) These exceptions now noted are based upon the following grounds:

1. This Court has no jurisdiction of the subject matter of this criminal proceeding.

2. Neither the Indictment herein, nor any count thereof, states any crime or offense against the laws of the United States, for the reasons and grounds set forth in the motion to quash and demurrer now on file in this action.

3. The "agreed statement of facts" now on file in this criminal action fails to state facts sufficient to authorize or sustain any instruction to find, or any finding, that, at any time or place, any conspiracy, whether as alleged in the Indictment on file herein, or in either count thereof, or on the part of any two of the defendants [154] named herein, or otherwise, to hire and retain, or to hire or retain, any person or persons whatever, within the territory of the United States, to go beyond the limits and jurisdiction of the United States with the intent on the part of any such person or persons to enlist and enter, or enlist



or enter, in the service of any foreign prince, and/or with the intent on the part of said defendants, or of any two of them, or of any of them, that any such person or persons should be enlisted and entered, or enlisted or entered, in the service of any foreign prince, as a soldier, or as a marine or seaman on board a vessel or vessels of war of any foreign prince whatever; and that said "agreed statement of facts" fails to state facts sufficient to authorize or sustain any instruction to find, or any finding, that any hiring and retaining, or hiring or retaining, whether as alleged in said Indictment or in either count thereof, or otherwise, was done or performed by said defendants or any one or more of them.

4. The aforesaid "agreed statement of facts" fails to show any conspiracy by said defendants as alleged in said Indictment, or in either count thereof, or any conspiracy on the part of any two or more of said defendants, to do or perform, or cause to be done or performed, any act or acts in order to effect and accomplish any hiring and retaining, or hiring or retaining, as alleged in said Indictment, or in either count thereof, or otherwise.

5. The aforesaid "agreed statement of facts" affirmatively shows that said defendants, or any two of them, if they combined at all, combined to do nothing except that which by law they were not prohibited from doing. [155]

6. The aforesaid "agreed statement of facts" is insufficient to justify or sustain the direction to the jury in this action, or the verdict by said jury against the defendants, or any one or more of them.

7. Any direction of the Court to the jury in this action, or any verdict of said jury in this action, against said defendants, or any one or more of them, is against and contrary to law.

8. Any direction of the Court to the jury in this action, or any verdict by said jury in this action, against said defendants, or any one or more of them, is against and contrary to the aforesaid "agreed statement of facts."

9. Nothing before this Court is sufficient to overcome, beyond all reasonable doubt, the presumption of innocence to which these defendants are, and each of them is, entitled by law.

Said exceptions were then and there denied, and disallowed by the said Court, to which ruling said defendants Ralph K. Blair and Thomas Addis, each for himself, and not the one for the other, then and there duly excepted, and now assign said ruling as error.

And be it further remembered that thereupon said jury selected Wm. H. Leahy, as foreman, and made, gave, rendered and returned in said cause and court their verdict as the same appears in the judgment-roll and record herein. And thereupon the following proceedings took place.

The CLERK.—Gentlemen of the Jury, harken to your verdict as it will stand recorded:

"We, the jury, find the defendants at the bar, Blair-Murdock Company, C. D. Lawrence, Harry G. Lane and [156] Kenneth Croft not guilty. William H. Leahy, Foreman." And so say you all.

"We, the jury, find Ralph K. Blair and Thomas

Addis, defendants at the bar, guilty on the first count of the Indictment and not guilty on the second count of the Indictment. William H. Leahy, Foreman." And so say you all.

Mr. DUNNE.—If your Honor please, the defendants Blair and Addis desire at this time to enter their exception to the verdict of the jury, in so far as that verdict finds them guilty upon the first count in the Indictment, for the reasons and upon the grounds heretofore stated by the defendants herein when noting their exceptions to the charge of the Court to the jury in this cause, said reasons and grounds being heretofore stated in this bill of exceptions.

Said exception to said Verdict of said Jury was then and there disallowed and denied by said Court, to which ruling said defendants Ralph K. Blair and Thomas Addis, each for himself, and not the one for the other, then and there duly excepted and now assign the same as error.

Thereupon said cause was duly continued until Saturday, October 30, 1915, for judgment.

And be it further remembered that on said Saturday, October 30, 1915, said cause came on regularly in said Court for judgment, and thereupon the following proceedings took place:

Said defendants Ralph K. Blair and Thomas Addis thereupon, through their Counsel, moved said Court for [157] a new trial of the above-entitled action, which said motion for a new trial was then and there filed in said cause and Court and appears in full in the judgment-roll and record herein; said motion for a new trial was thereupon presented to

said Court for its consideration, and said Court then and there denied said motion, to which ruling said defendants, and each of them, respectively, noted and reserved an exception, and now assign the said ruling as error.

And be it further remembered that on said Saturday, October 30, 1915, after the aforesaid ruling was had and exception reserved upon said motion for a new trial, said defendants, Ralph K. Blair and Thomas Addis, thereupon, through their counsel, moved said Court for a motion in arrest of judgment in the above-entitled action, which said motion in arrest of judgment was then and there filed in said cause and court and appears in full in the judgment-roll and record herein; said motion in arrest of judgment was thereupon presented to said Court for its consideration, and said court then and there denied said motion, to which ruling said defendants, and each of them respectively, noted and reserved an exception, and now assigns the said ruling as error.

The COURT.—The judgment of the Court will be that each of the defendants pay a fine in the sum of \$1000, with the usual alternative.

Mr. DUNN.—To the sentence and judgment of the Court, the defendants, and each of them, respectfully except.

And said defendants do, and each of them does, hereby assign said sentence and judgment as error.

And to the end that justice and right may be [158] done, the said defendants, Ralph K. Blair and Thomas Addis, and each of them, hereby present the foregoing as their Bill of exceptions

herein, and pray, and each of them prays, that this said Bill of Exceptions herein be settled, allowed and approved as true and correct in all particulars, and be made a part of the records in the above-entitled cause.

Dated: San Francisco, California, Tuesday, November 9th, 1915.

RALPH K. BLAIR,  
THOMAS ADDIS,

Said Defendants and Plaintiffs in Error Herein.

J. J. DUNNE,  
ALLEN G. WRIGHT,  
HENRY G. DINKELSPIEL,  
JOHN R. JONES,

Attorneys for said Defendants and Plaintiffs in Error.

**[Notice of Settlement of Bill of Exceptions.]**

To JOHN W. PRESTON, Esq., United States Attorney for the Northern District of California, at San Francisco.

Sir: You will please take notice that the foregoing constitutes and is the Bill of Exceptions of the defendants, Ralph K. Blair and Thomas Addis in the above-entitled cause, and that said defendants will ask the settlement, allowance and approval of the same.

November 9th, 1915.

J. J. DUNNE,  
ALLEN G. WRIGHT,  
HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

Attorneys for said Defendants and Plaintiffs in Error. [159]

**[Stipulation as to Bill of Exceptions.]**

It is hereby stipulated and agreed that the foregoing Bill of Exceptions is true and correct in all particulars, and that the same may be settled, allowed and approved by said Court without further notice, and that the same may be made a part of the records in the above-entitled cause.

Dated: San Francisco, California, November 17th, 1915.

UNITED STATES OF AMERICA.

By JNO. W. PRESTON,

United States Attorney for the Northern District of California, at San Francisco, Attorney for Defendant in Error Herein.

RALPH K. BLAIR.

THOMAS ADDIS.

By J. J. DUNNE,

ALLEN G. WRIGHT,

HENRY G. W. DINKELSPIEL,

JOHN R. JONES,

Attorneys for said Defendants and Plaintiffs in Error Herein.

**[Order Settling Bill of Exceptions.]**

United States of America,

Northern District of California,—ss.

In the matter of the foregoing Bill of Exceptions duly presented in time by the defendants Ralph K. Blair and Thomas Addis, plaintiffs in error herein:

It is hereby ordered by said Court that said [160] Bill of Exceptions be, and the same is hereby settled,

allowed and approved as true and correct in all particulars;

And it is hereby further ordered by said Court that said Bill of Exceptions be, and the same is hereby, made a part of the Records in the above-entitled cause.

Given, made and dated at San Francisco, California, this 17 day of November, A. D. 1915.

M. T. DOOLING,  
United States District Judge.

[Endorsed]: Filed Nov. 17, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [161]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT, C.  
D. LAWRENCE,

Defendants.

**Notice of Petition for Writ of Error.**

To the United States of America, and to Honorable  
JOHN W. PRESTON, United States Attorney  
for the Northern District of California, at San  
Francisco:

You, and each of you, will please take notice

hereby that on Saturday, the 30th day of October, A. D. 1915, we shall present to the above-entitled court the petition for writ of error and supersedeas herein, and assignment of errors herein, and shall move said Court to allow said writ of error and said supersedeas, and to direct the issuance of the same, and of the citation herein. Copies of said petition for writ of error and supersedeas, and of the assignment of errors herein are made a part of this notice, attached hereto and served herewith.

Dated, San Francisco, California, October 30, A. D. 1915.

RALPH K. BLAIR,  
THOMAS ADDIS,

Petitioners and Plaintiffs in Error.

By J. J. DUNNE,  
ALLEN G. WRIGHT,  
HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

Their Attorneys. [162]

Due service of the foregoing notice, and receipt of copies of the various papers therein referred to are hereby admitted this 30th day of October, A. D. 1915.

THE UNITED STATES OF AMERICA,  
The Defendant in Error.

By JNO. W. PRESTON,  
United States Attorney for the Northern District of  
California, at San Francisco, Attorney for Said  
Defendant in Error.

[Endorsed]: Filed Oct. 30, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [163]



*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
-sion.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY, (a Corpora-  
tion), RALPH K. BLAIR, THOMAS  
ADDIS, HARRY G. LANE, KENNETH  
CROFT, C. D. LAWRENCE,  
Defendants.

**Petition for Writ of Error.**

Your petitioners, the above-named Ralph K. Blair and Thomas Addis, defendants in the above-entitled cause, bring this their petition for a writ of error to the District Court of the United States in and for the Northern District of California, and in that behalf your petitioners show :

On the 27th day of October, 1915, in the above-entitled cause, there was made, given, rendered and entered in the above-entitled court, and by the jury impaneled in said cause, the verdict of not guilty in favor of the defendants Blair-Murdock Company, a corporation, Harry G. Lane, Kenneth Croft and C. D. Lawrence upon each and all of the counts in the Indictment herein contained; and that on said last mentioned day in said cause and court and by said jury there was made, given, rendered and entered a verdict of not guilty in favor of the defendants

Ralph K. Blair and Thomas Addis upon the second count in the Indictment herein contained; and that on said last-mentioned date, in said cause and court and by said jury, there was made, given, rendered and entered a verdict of guilty against the above-named defendants Ralph K. Blair and Thomas Addis upon the first count in said Indictment herein contained; and that thereafter, and on the 30th day of October, A. D., 1915, there was made, given, rendered and entered in the above-entitled [164] court and cause a judgment against your petitioners herein, namely, said defendants Ralph K. Blair and Thomas Addis, wherein and whereby your said petitioners, said Ralph K. Blair and said Thomas Addis, were, and each of them was, adjudged and sentenced to pay a fine of One Thousand (\$1000) Dollars, in lawful money of the United States, or in default of the payment of said fine to be imprisoned until said fine be paid or until he be otherwise discharged by due course of law.

And your petitioners further show that they are, and each of them is, advised by counsel, and each of them avers that there was and is manifest error in the records and proceedings had in said cause and in the making, giving, rendition and entry of said judgment and sentence to the great injury and damage of your petitioners, and of each of them, all of which error will be more fully made to appear by an examination of the said record and by an examination of the bill of exceptions of your petitioners tendered and filed herein, and in the assignment of errors hereinafter set out; and to that end thereafter that

the said judgment, sentence and proceedings may be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, your petitioners now pray, and each of them now prays, that a writ of error may be issued, directed therefrom to the said District Court of the United States for the Northern District of California, returnable according to law and the practice of the Court, and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignment of errors, and all proceedings had in said cause, that the same may be removed to the United States Circuit Court of Appeals for the Ninth Circuit to the end that the error, if any has happened, may be duly corrected; and full and speedy justice done your petitioners, and each of your petitioners.

And your petitioners now make, and each of them now makes, the assignment of errors attached hereto, upon which they, and [165] each of them will rely and which will be made to appear by a return of the said record in obedience to said writ.

WHEREFORE, your petitioners pray, and each of them prays, the issuance of a writ as herein prayed, and said petitioners pray, and each of them prays, that the assignment of errors annexed hereto may be considered as their, and each of their, assignment of errors upon the writ, and that the judgment rendered in this cause may be reversed and held for naught, and that said cause be remained for further proceedings and that your petitioners, and each of them, be awarded a supersedeas upon said judgment

and all necessary process, including bail.

RALPH K. BLAIR,  
THOMAS ADDIS,  
Said Petitioners.

J. J. DUNNE,  
ALLEN G. WRIGHT,  
HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

Attorneys for said Petitioners and each of  
them.

Service of the foregoing Petition for Writ of Error,  
and receipt of a copy thereof, are hereby admitted,  
this 30th day of October, 1915.

THE UNITED STATES OF AMERICA.  
BY JNO. W. PRESTON,  
United States Attorney for the Northern District of  
California, at San Francisco.

[Endorsed]: Filed Oct. 30, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [166]

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*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
sion.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY, a Corporation,  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT, C.  
D. LAWRENCE,

Defendants.

**Assignment of Errors.**

Now come Ralph K. Blair and Thomas Addis, defendants in the above-entitled cause, and plaintiffs in error herein, and having petitioned for an order from said court permitting them to procure a writ of error to this court, directed from the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and sentence made and entered in said cause against said plaintiffs in error and petitioners herein, and each of them, and file with their said petition the following assignments of error herein upon which they, and each of them, will rely for a reversal of said judgment and sentence upon the said writ, and which said errors, and each and every of them, are to the great detriment, injury and prejudice of the said defendants, and of each of them, and in violation of the rights conferred upon them, and each of them, by law; and they say that in the record and proceedings in the above-entitled cause, upon the hearing and determination thereof in the District Court of the United States for the Northern District of California, there is manifest error in this, to wit:

1. That the said District Court erred in denying the motions of the said defendants to quash the Indictment filed in said cause [167] upon the grounds in said motions set forth, and erred in denying the said motions of the said defendants to quash each count of said Indictment upon the grounds in said motions set forth, and erred in denying the said motions of the said defendants to quash each count of said Indictment upon each and every ground in

each of said motions assigned.

2. That the said District Court erred in overruling the demurrers of the said defendants to the Indictment filed in said cause upon the grounds in said demurrers set forth, and erred in overruling the demurrers of the said defendants to each count of said Indictment upon the grounds in said demurrers set forth, and erred in overruling the demurrers of the said defendants to each count of said Indictment upon each and every count of demurrer thereto in said demurrers assigned.

3. That the said District Court erred in charging and instructing the jury impaneled in said cause that: "It may not be amiss to state at the outset that Section 10 is designed to protect the sovereignty of the United States, and could be violated as well at a time of universal peace, as it could be at a time of almost general war. In other words it is not essential to a violation of this section that war should exist anywhere at the time of such violation, although in times of war among other nations with which this Government is at peace, a violation of the section on behalf of one of the belligerents by hiring or retaining men here to go abroad with intent to enlist in the army or navy of such belligerent and assist in carrying on the war against other nations with which this Government is upon friendly terms, might well be regarded by the Government with greater gravity, as rendering more difficult its position as a neutral power"; and therein did misdirect said jury.

4. That the said District Court erred in charging and instructing [168] the jury impanelled in said

cause that: "Some of the defendants, and particularly Blair and Addis, were acting in concert and with a well-defined purpose on their part to accomplish some certain things does not admit of doubt. Together they formed the British Friendly Association, the purpose of which was to transport to New York British subjects sound in body and limb. It is not to be conceived, and indeed all of the circumstances negative any such conception that they expected the journey of the men so transported to end at New York. The ultimate destination of these men was some point in the British Empire, and the defendants knew it, and were jointly engaged in sending them there"; and therein misdirected said jury.

5. That the said District Court erred in charging and instructing the jury impaneled in said cause that: "They (said defendants) had associated themselves together to transport to New York British subjects, sound in body and limb, whose ultimate destination was England, and at least a majority of whom intended to enlist there in the military or naval service, and all of whom the defendants supposed, believed and presumed would so enlist"; and therein misdirected said jury.

6. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"And indeed as it was the manifest purpose and intention of defendants that those sent by them from San Francisco should go beyond the limits of the United States, and as it was equally the purpose of the men so sent to go beyond such limits, our inquiry

is narrowed to the ascertainment of the meaning of the words 'hires or retains' as used in the statute and to determining whether such meaning applies to the things for the doing of which the defendants were associated"; and therein misdirected said jury.

7. That the said District Court erred in charging and instructing the jury impaneled in said cause that: [169]

"To hire in its ordinary signification, and we should here seek no other, means 'to contract for the labor and service of, for a compensation, to engage the services of, employ for wages, salary or other consideration; to engage the interest of, agree to pay for the desired action or conduct of,' and this has been the meaning of the word since it was first used in the statute in question and its predecessors. It is not essential to a hiring that the consideration be pecuniary, or that it be paid at once"; and therein misdirected said jury.

8. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"In a case tried in 1855, involving the construction of this statute, (United States vs. Hertz, 26 Fed. Cases No. 15,357) the Court instructed the jury as follows:

'The hiring or retaining does not necessarily include the payment of money on the part of him who hires or retains another. He may hire or retain a person with an agreement that he shall pay wages when the services shall have been performed. A person may be hired or retained to go beyond the limits



of the United States, with a certain intent, though he is only to receive his pay after he has gone beyond the limits of the United States with that intent. Moreover, it is not necessary that the consideration of the hiring shall be money. To give a person a railroad ticket, that cost \$4.00, and board and lodge him for a week is as good, as a consideration for the contract of hiring, as to pay him the money with which he could buy the railroad ticket and pay for his board himself' ”; and therein misdirected said jury.

9. That the said District Court erred in charging and instructing the jury impaneled in said cause that: [170]

“And in an exhaustive opinion rendered by Attorney-General Cushing in that same year is found the following:

‘It is possible, that he may have supposed that a solemn contract of hiring in the United States is necessary to constitute the offense. That would be a mere delusion. The words of the statute are “hire or retain.” It is true, our act of Congress does not expressly say, as the British act of Parliament does whether any enlisted money, pay, or reward shall have been given or not’; nor was it necessary to insert these words. A party may be retained by verbal promise, or by invitation for a declared or known purpose. If such a statute could be evaded or set at naught by elaborate contrivances to engage without enlisting, to retain without hiring, to invite without recruiting, to pay recruiting money in fact, but under the name of board, passage money, expenses or

the like, it would be idle to pass acts of Congress for the punishment of this or any other offense.'

I have adopted these quotations because they seem to me to state accurately the meaning of the law, to be well within its terms, and to afford the only construction that will render it effective for the purpose for which it was intended"; and therein misdirected said jury.

10. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"That fact that other countries, having laws for compulsory military service, have assisted their subjects in this country to return to their native land is a false quantity here, and one with which we have nothing to do. It throws no light upon the questions which we are to consider. The case on trial must be determined upon its own particular facts without regard to what has been done either here or elsewhere by persons not included in the present Indictment"; and therein misdirected said jury. [171]

11. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"Nor is there here involved any question as to the right of individuals to go from this country either singly or in groups to another country with intent there to enlist. The sole question here is, do the facts before us show a conspiracy on the part of defendants to violate the statute which we have been considering"; and therein misdirected said jury.

12. That the said District Court erred in charg-

ing and instructing the jury impaneled in said cause that:

“It would be taking credulity to the utmost to urge that with the lists and instructions, the defendants did not know that what was sought by the Consul-General was men who would go to England there to enlist in the military or naval service. They were ‘to give no pay or advance.’ It is not stated ‘pay or advance for what.’ They were ‘to make no engagements of any description whatever.’ It is not stated in the instructions what they were to do in this regard, but they were to examine the men to see if they were suitable, and to send them on, not more than 50 at a time. Evidently while under the instructions they could make no engagements, they certainly could come to some understanding with the men that they should be sent forward for some purpose for which, after a physical examination they were found to be ‘suitable.’ They were ‘to give no information as to pay, allotments, etc.,’ ‘pay or allotments for what?’ The instructions do not state, but the facts show that all British soldiers and seamen receive a daily pay and may receive pensions and allotments after their service is terminated, and that this was known both by defendants and by the men transported”; and therein misdirected said jury.

13. That the said District Court erred in charging and instructing the jury impaneled in said cause that: [172]

“The men pending and after examination were kept at boarding and lodging houses until a sufficient number was assembled for ‘orderly transportation.’

All this was designed, and defendants knew it, to secure men to return to Great Britain and enlist"; and therein misdirected said jury.

14. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"They (said defendants) examined the men, boarded them, lodged them, transported them in squads to New York, where they expected them to report to the British Consul for further examination and further transportation"; and therein misdirected said jury.

15. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"Defendants knew what they expected the men to do, and the men in turn knew what was expected of them. Defendants, in the language of the stipulation, supposed, presumed and believed that the men would go to England and there enlist in the military or naval service, and a majority of the men intended to do so; they were furnished board, lodging and transportation for that reason alone"; and therein misdirected said jury.

16. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

"The offer of defendants was, even though never put into words, 'if you men, having been found after examination, physically suitable, will go to England and enlist, we will furnish you with board and lodging while you are here awaiting examination and

transportation, and we will furnish you with transportation to New York, and sustenance during the trip' ”; and therein misdirected said jury.

17. That the said District Court erred in charging and instructing the jury impaneled in said cause that: [173]

“And this offer the men accepted by submitting to examination, by accepting board, lodging, sustenance and transportation, with the intent in the majority of them at least to do the thing desired”; and therein misdirected said jury.

18. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“It would be to look on to *to* the form in utter disregard of the substance to accept as a sufficient response to all these facts the statement that at no time did defendants or any of them expressly say in words to any of the men that they should enlist in the service of Great Britain as soldiers, sailors or marines. Just as it would be to regard the form alone and disregard the substance to believe, in view of all the facts, that when the Consul-General turned over to Harris of the Friendly Association the lists of so-called ‘Volunteers,’ with the manifest intention that they should be used, the instructions accompanying them were designed for any other purpose than to secure here men to go beyond the limits of the United States fro enlistment, without appearing to have violated the law; to accomplish in fact the results against which the statute is directed, and to do the things therein forbidden without appearing to do

so''; and therein misdirected said jury.

19. That the said District Court erred in charging and instructing the jury impaneled in said cause that:

“While therefore it may be true that they said defendants believed they were acting within the law, I am of the opinion, for the reasons stated, that some of the defendants did enter into the conspiracy as charged in the Indictment, and that defendant Blair for the purpose of effecting the object thereof committed some of the overt acts charged’’; and therein misdirected said jury. [174]

20. That the said District Court erred in charging and instructing the jury impaneled in said cause that: “As to the defendants Ralph K. Blair and Thomas Addis, it will be . . . denied as to the first’’; and therein misdirected said jury.

21. That the said District Court erred in charging and instructing the jury impaneled in said cause that: “As to the defendants Ralph K. Blair and Thomas Addis, you will return a verdict of guilty upon the first count’’; and therein misdirected said jury.

22. That the said District Court erred in failing to charge and instruct the jury impaneled in said cause that the knowledge of either said Ralph K. Blair or said Thomas Addis, or both of them, of any criminal conspiracy or agreement, or purpose on the part of any other person or persons, without active co-operation by said Blair or Addis, or both of them in such criminal conspiracy, agreement or purpose, would not be sufficient to authorize or justify any

finding of guilty against either said Blair or said Addis, or both of them; and in failing so to instruct and charge said jury, said Court misdirected said jury.

23. That the said District Court erred in failing to instruct and direct said jury that not merely the bare acts of said defendants, and/or of each of them, were to be considered, but also the intention and purpose of said defendants, and/or of each of them, in doing any act or acts referred to in the agreed statement of facts on file herein should also be considered; and in failing so to instruct and charge said jury, said Court misdirected said jury.

24. Said District Court erred in failing to instruct and direct said jury that the intention and purpose of said defendants, and each of them, in doing any act or acts mentioned in the agreed statement of facts on file herein were material to the issue which was then before said jury; and that unless said jury were satisfied [175] beyond all reasonable doubt that said intention and purpose of said defendants, and/or of either of them, in acting as shown in the agreed statement of facts on file herein, were criminal, and that they, or either of them, did such acts with the intention to violate the law, and did those acts with that object, then said jury could not and should not find said defendants, or either of them, guilty of any offense under the Indictment herein, or either count thereof; and in failing so to instruct and charge said jury, said Court misdirected said jury.

25. That the said District Court erred in failing

to instruct and direct said jury that before said defendants, or either of them, could be convicted under the Indictment, or any count thereof, the facts stated in the agreed statement of facts on file herein must be of such a character as to exclude every reasonable hypothesis but that of the defendant's, or defendants', guilt of the offense charged in said Indictment, or in either count thereof; and in failing so to instruct and charge said jury, said Court misdirected said jury.

26. That said District Court erred in failing to instruct and direct said jury that if all the facts stated in the agreed statement of facts on file herein taken together are as compatible with innocence as with guilt, there arises a reasonable doubt requiring the acquittal of said defendants, or of each of them, of any and all offenses *re*-referred to in the Indictment herein, or in either count thereof; and in failing so to instruct and charge said jury, said Court misdirected said jury.

27. That said District Court erred in failing to instruct and direct said jury that his Majesty the King of Great Britain and Ireland was at all the times in the agreed statement of facts mentioned, desirous of the return to Great Britain of British subjects for employment in the army and navy, and in various branches [176] of the national service of all kinds; and in failing further to instruct and charge said jury that if the facts stated in said agreed statement of facts, taken together, were or are as compatible with the assisting or transporting to Great Britain of British subjects for employment



in the various branches of the national service of all kinds, as they with the hypothesis that such subjects were hired and retained for employment or enlistment in the army or navy of Great Britain, that then neither said defendants, nor either of them, could be convicted of any offense charged in the Indictment herein, or in either count thereof, and in failing so further to charge said jury, said Court misdirected said jury.

28. That said District Court erred in failing to instruct and direct said jury that the acts and conduct of said defendants, and of each of them, as stated in the agreed statement of facts on file herein was and is entirely as consistent with the assisting and transporting to Great Britain of British subjects, sound in body and limb, for employment in the various branches of the national service of all kinds, as they were or are with any other theory or hypothesis; and in failing further to instruct and charge said jury that where in a given cause there are two theories or hypotheses open by which the agreed facts may be explained, one in favor of innocence, and the other in favor of a criminal course, the one in favor of innocence must be accepted and must prevail; and in failing further to charge and instruct said jury that if the acts and conduct of the defendants, and of each of them, as stated in the agreed statement of facts on file herein, were as consistent with the hypothesis of assisting and transporting to Great Britain of British subjects, sound in body and limb, for employment in the various branches of the National service of all kinds, as they

were [177] with the hypothesis that such British subjects were assisted and transported to Great Britain for employment in the army and navy, then that said jury could not convict said defendants, or either of them, under said Indictment or either of the counts thereof, but must acquit them and each of them; and in failing so further to charge said jury, said Court misdirected said jury.

29. That said District Court erred in failing to instruct and direct said jury that the acts and conduct of the defendants, and each of them, stated in the agreed statement of facts, were and are explainable upon an hypothesis arising upon the face of the agreed statement of facts herein, and consistent with innocence, namely, the hypothesis that the defendants, either together or separately, assisted the return to Great Britain of British subjects, sound in body and limb, for employment in the various branches of the national service of all kinds; and in failing so to instruct and charge said jury, said Court misdirected said jury.

30. That said District Court erred in its instruction and charge to the jury impaneled in said cause by adopting in said instruction and charge, and presenting the same to said jury, an interpretation of said agreed statement of facts, and a theory of the case, in favor of the guilt rather than in favor of the innocence of said defendants, and/or each of them; and in failing to instruct and charge said jury to adopt such an interpretation of said agreed statement of facts, and such a theory of this cause as would be in favor of the innocence rather than in

favor of the guilt of said defendants, and/or either of them, said court misdirected said jury.

31. That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist the return to Great Britain of British subjects, sound [178] in body and limb, for employment in the various branches of the national service of all kinds, and in failing so further to charge said jury, said Court misdirected said jury.

32. That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist, financially, or otherwise, the return to Great Britain of British subjects, sound in body and limb, when such assistance, whether financial or otherwise, is given to such British subjects who voluntarily present themselves and ask for assistance without disclosing their intention, and to whom assistance is given without imposing any obligation upon them to enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman; and in failing so further to charge said jury, said Court misdirected said jury.

33. That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist the return to Great Britain of British subjects, sound in body and limb, where such assistance is

given by persons who supposed, believed and presumed that such British subjects would enlist in the military or naval service of Great Britain, and where it was the individual intent of a majority of such British subjects so assisted to enlist in such service; and in failing so further to charge said jury, said Court misdirected said jury.

34. That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist the return to Great Britain of British subjects, sound in body and limb, even though those furnishing such assistance, supposed, believed and presumed that such British subjects, [179] so assisted, would enlist in the military or naval service of Great Britain, and even though it was the individual intent of a majority of such British subjects, so assisted, to enlist in such service, where no obligation was imposed upon such British subjects, or upon any of them to enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman, and where no obligation was put upon the British subjects, so assisted, to go beyond the limits of jurisdiction of the United States with the intent so to enlist; and in failing so further to charge said jury said Court misdirected said jury.

35. That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to aid or assist

the return to Great Britain of British subjects, sound in body and limb, even though those furnishing such assistance, supposed, believed and presumed that such subjects, so aided and assisted, would enlist in the military or naval service of Great Britain, and even though it was the individual intent of a majority of such British subjects, so aided and assisted, to enlist in such service, unless there was, not only an obligation upon such British subjects, so aided and assisted, to enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman, or an obligation upon such British subjects to go beyond the limits or jurisdiction of the United States with the intent so to enlist, but also that there was an actual engagement entered into between the persons giving such aid or assistance and the British subjects so aided and assisted whereby such British subjects so aided and assisted, should enlist or enter in the service of the King of Great Britain and Ireland as a soldier or as a marine or seaman, or should go beyond the limits or jurisdiction of [180] the United States with the intent so to enlist, such engagement being with the consent and understanding of both parties to such engagement; and in failing so further to charge said jury, said Court misdirected said jury.

36. That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States for individuals to go beyond the limits or jurisdiction of the United

States with intent to enlist in foreign military service; and in failing so further to charge said jury, said court misdirected said jury.

37. That the said District Court erred in failing to instruct and charge the jury impaneled in said cause that it was and is no crime or offense against any of the laws of the United States to transport persons out or beyond the limits or jurisdiction of the United States and to land them in foreign countries when such persons had an intent to enlist in foreign armies; and in failing so further to charge said jury, said Court misdirected said jury.

38. That the said District Court erred in permitting to be rendered, and in receiving the verdict of the jury herein in so far as said verdict found these defendants guilty under the first count in the indictment herein contained;

39. That the said District Court erred in overruling and denying the motion of these defendants for a new trial of the above-entitled action, and in not allowing the same for the reasons and grounds in said motion taken and assigned.

40. That the said District court erred in overruling and denying the motion of these defendants in arrest of judgment upon the grounds and reasons in said motion taken and assigned.

41. That the said District Court erred in making, giving, rendering, entering and filing judgment herein against these defendants, [181] and/or each of them. on the first count of the Indictment herein for the reason that neither said Indictment nor said first count thereof states any crime or

offense against any law of the United States, for the reasons, and each of them, taken and assigned by these defendants in their demurrers to said Indictment, and to said first count thereof.

42. That the said District Court erred in sentencing these defendants, and/or each of them without their first being adjudged, and/or each of them first being adjudged guilty of any crime or offense against any law of the United States.

43. That the said District Court erred in giving, making, rendering, entering and filing its judgment in the above-entitled cause in favor of the United States of America and against these defendants, and/or each of them.

44. That the said District Court erred in not giving, making, rendering, entering and filing its final judgment in the above-entitled cause in favor of these defendants and each of them, and against the United States of America.

45. That the said District Court erred in giving, making, rendering, entering and filing its final judgment in the above-entitled action in favor of the United States of America and against these defendants, and/or each of them upon the pleadings and record in said action.

46. That the said District Court erred in giving, making, rendering, entering and filing its final judgment in said action in favor of the United States of America and against these defendants, and/or each of them, in this, that said final judgment was and is contrary to law and to the case made and facts stated in the pleadings, "agreed statement of facts,"

and record in said action.

47. That the said District Court erred in pronouncing sentence against these defendants, and/or each of them. [182]

In order that the foregoing assignment of errors may appear of record, these defendants, and each of them, present the same to the above-entitled court and pray that such disposition be made thereof as is in accordance with law and Statutes of the United States in such cases made and provided; and these defendants pray, and each of them prays, the reversal of the above-mentioned final judgment heretofore given, made, rendered, entered and filed by the above-entitled court in the above-entitled action.

Dated: San Francisco, California, October 30, A. D., one thousand nine hundred and fifteen.

RALPH K. BLAIR,  
THOMAS ADDIS,

Said Defendants,

By J. J. DUNNE,

ALLEN G. WRIGHT,

HENRY G. W. DINKELSPIEL,

JOHN R. JONES,

Their Attorneys.

United States of America,

Northern District of California,—ss.

We, the undersigned, attorneys for the plaintiff in error herein, do hereby certify that the foregoing assignment of errors is made on behalf of petitioners for a writ or error herein, and is in our opinion well taken, and the same now constitutes the assignment



of errors upon the writ prayed for.

Dated: San Francisco, California, October 30, A. D. 1915.

J. J. DUNNE,  
ALLEN G. WRIGHT,  
HENRY G. W. DINKELSPIEL,  
JOHN R. JONES,

Attorneys for Plaintiffs in Error.

Due service of the foregoing assignment of errors, and receipt of a copy thereof, are hereby admitted this 30th day of October, A. D. 1915.

THE UNITED STATES OF AMERICA,  
By JNO. W. PRESTON,  
United States Attorney for the Northern District  
of California, at San Francisco.

[Endorsed]: Filed Oct. 30, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [183]

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*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
sion.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT, C.  
D. LAWRENCE,

Defendants.

**Order Allowing Writ of Error and Supersedeas.**

In the above-entitled cause, the writ of error, and the supersedeas therein prayed for by the defendants and petitioners Ralph K. Blair and Thomas Addis, pending the decision upon the writ of error, are hereby allowed; and each of said defendants and petitioners is hereby admitted to bail upon the writ of error in the sum of Two Thousand (\$2000.00) Dollars. The bond for costs upon said writ of error is hereby fixed at the sum of Five Hundred (\$500.00) Dollars.

Given made and dated at San Francisco, for the Northern District of California, this 30th day of October, A. D. 1915.

M. T. DOOLING,  
Judge of Said Court.

[Endorsed]: Filed Oct. 30, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [184]

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*In the District Court of the United States, in and for  
the Northern District of California First Division.*

No. 5750.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT, C.  
D. LAWRENCE,

Defendants.

**Supersedeas Bond (Thomas Addis).**

KNOW ALL MEN BY THESE PRESENTS, that we, Thomas Addis, of the City and County of San Francisco, State of California, as principal, and American Surety Company of New York as Surety are held and firmly bound unto the United States of America in the full sum of Two Thousand Dollars lawful money of the United States, and the further sum of Five Hundred Dollars, lawful money of the United States, to be paid to the United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 1st day of November, A. D. 1915.

WHEREAS, lately at a term of the District Court of the United States, in and for the Northern District of California, in a suit pending in said court between the United States of America, and Thomas Addis, and others, defendants, a judgment and sentence was made, given, rendered and entered against the said Thomas Addis, and the said Thomas Addis having obtained a writ of error from the United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence, and a citation directed to the [185] United States of America to be and appear in said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, pursuant to the terms and at the time fixed in said citation, which said citation has been duly served:

NOW, the condition of the above obligation is such that if the said Thomas Addis shall appear either in person or by attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said court, and prosecute his writ of error, and if the said Thomas Addis shall abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of said judgment and sentence as said Court may direct, if the judgment and sentence against him shall be affirmed, and if he shall appear for trial in the District Court of the United States for the Northern District of California, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said Court, provided the judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation to be void; otherwise to remain in full force, virtue and effect.

THOMAS ADDIS. (Seal)

AMERICAN SURETY COMPANY OF  
NEW YORK. (Seal)

H. J. DOUGLAS. (Seal)

Resident Vice-president.

(Seal of Surety) Attest: V. H. GALLOWAY,  
Resident Assistant Secretary.

Taken, signed, sealed and acknowledged before me this 1st day of Nov. A. D. 1915.

(Commissioner's Seal) FRANCIS KRULL,  
United States Commissioner for the Northern District of California, at San Francisco.

Form of bond and sufficiency of surety approved.  
JNO. W. PRESTON,  
United States Attorney for the Northern District of California, at San Francisco.

[Endorsed]: Filed Nov. 1, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [186]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,  
Defendants.

**Supersedeas Bond (Ralph K. Blair).**

KNOW ALL MEN BY THESE PRESENTS,  
that we, Ralph K. Blair, of the City and County of San Francisco, State of California, as principal, and AMERICAN SURETY COMPANY OF NEW YORK, a corporation, as Surety are held and firmly bound unto the United States of America in the full

sum of Two Thousand Dollars, lawful money of the United States, and the further sum of Five Hundred Dollars, lawful money of the United States, to be paid to the United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 30th day of October, A. D. 1915.

WHEREAS, lately at a term of the District Court of the United States, in and for the Northern District of California, in a suit pending in said court between the United States of America, and Ralph K. Blair, and others, defendants, a judgment and sentence was made, given, rendered and entered against the said Ralph K. Blair, and the said Ralph K. Blair having obtained a writ of error from the United States Circuit Court of Appeals for the Ninth Circuit to reverse said judgment and sentence, and a citation directed to the United States of America to be and appear in said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, [187] pursuant to the terms and at the time fixed in said citation, which said citation has been duly served:

NOW, the condition of the above obligation is such that if the said Ralph K. Blair shall appear either in person or by attorney in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said court, and prosecute his writ of error, and if the said Ralph K. Blair shall abide by and obey all orders made by the United States Circuit

court of appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of said judgment and sentence as said Court may direct, if the judgment and sentence against him shall be affirmed, and if he shall appear for trial in the District Court of the United States for the Northern District of California, on such day or days as may be appointed for the retrial by said District Court, and abide by and obey all orders made by said court, provided the judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation to be void; otherwise to remain in full force, virtue and effect.

RALPH K. BLAIR, (Seal)

AMERICAN SURETY COMPANY OF  
NEW YORK. (Seal)

By H. J. DOUGLAS, (Seal)

Resident Vice-president.

(Surety Seal) Attest: D. ELMER DYER,

Resident Assistant Secretary.

Signed, sealed and acknowledged before me this  
30th day of October, A. D. 1915.

[Commissioner's Seal] FRANCIS KRULL,  
United States Commissioner for the Northern Dis-  
trict of California, at San Francisco.

Form of bond and sufficiency of surety, approved.

JNO. W. PRESTON,

United States Attorney for the Northern District of  
California, at San Francisco.

The foregoing bond is hereby accepted and approved this 30th day of October, A. D. 1915.

M. T. DOOLING,

Judge of the Above-entitled Court.

[Endorsed]: Filed Oct. 30, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [188]

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**Certificate of Clerk, U. S. District Court, to  
Transcript of Record on Writ of Error.**

I, Walter B. Maling, Clerk of the District Court of the United States for the Northern District of California, do hereby certify and return to the Honorable the United States Circuit Court of Appeals for the Ninth Circuit, that the foregoing 188 pages, numbered from 1 to 188 inclusive, is a true and complete transcript of the records, proceedings, pleadings, orders, bill of exceptions and exhibits attached thereto, assignment of errors, judgments and other proceedings in the above-entitled cause, and of the whole thereof, as appears from the original records and files of said court made up pursuant to praecipe filed herein by plaintiffs in error, with the following exceptions, that is to say: In the place and stead of U. S. Exhibit "C" attached to the Bill of Exceptions herein, I have placed a true and complete copy of that certain stipulation on file herein, relative to said exhibit "C" heretofore entered into by and between the parties to the above-entitled action; and I do hereby further certify, that with the foregoing volume I do hereby return unto said the Honorable the United States Circuit Court of Ap-



peals for the Ninth Circuit, said original exhibit "C."

I FURTHER CERTIFY that the cost for preparing and certifying said Transcript, amounting to \$101.90, has been paid by plaintiffs in error.

Annexed hereto is the original Writ of Error, pages 190, 191 and 192, with Return attached, page 193, and Original Citation, pages 194, 195 and 196.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said District Court this 29th day of November, A. D. 1915.

[Seal]

WALTER B. MALING,  
Clerk.

By C. W. Calbreath,  
Deputy Clerk.

[Ten Cent Internal Revenue Stamp. Canceled  
11/29/15. C. W. C.] [189]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Writ of Error.**

United States of America—ss.

The President of the United States of America, to  
the Honorable, the Judges of the District Court  
of the United States for the Northern District  
of California, GREETING:

Because, in the record and proceedings, as also in  
the rendition of the judgment of a plea which is in  
the said District Court, before you, or some of you,  
between Ralph K. Blair and Thomas Addis, plain-  
tiffs in error, and the United States of America, de-  
fendant in error, a manifest error hath happened,  
to the great damage of the said plaintiffs in error,  
and each of them, as by their, and each of their, com-  
plaint appears:

We, being willing that error, if any hath [190]  
been, should be duly corrected, and full and speedy  
justice done to the parties aforesaid in this behalf,  
do command you, if judgment be therein given, that  
then, under your seal, distinctly and openly you send  
the record and proceedings aforesaid, with all things  
concerning the same, to the United States Circuit  
Court of Appeals for the Ninth Circuit, together  
with this writ, so that you have the same at the City  
of San Francisco, in the State of California, within  
thirty days from the date hereof, in the said Circuit  
Court of Appeals, to be then and there held, that the  
record and proceedings aforesaid being inspected,  
the said Circuit Court of Appeals may cause further  
to be done therein to correct that error, what of right  
and according to the laws and customs of the United  
States should be done.

Witness, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States, the 30th day of October, in the year of our Lord, one thousand nine hundred and fifteen.

[Seal] W. B. MALING,  
Clerk of the United States District Court, Northern  
District of California.

By C. W. Calbreath,  
Deputy Clerk.

Allowed by:

M. T. DOOLING,  
Judge of Said Court.

Service of the foregoing Writ of Error and receipt of a copy thereof, are hereby admitted, this 30th day of October, 1915.

THE UNITED STATES OF AMERICA.

By JNO. W. PRESTON,  
United States Attorney for the Northern District of  
California, at San Francisco. [191]

[Endorsed]: No. 5750. In the District Court of the United States, in and for the Northern District of California, First Division. The United States of America, Plaintiff, vs. Blair-Murdock Company (a Corporation), et al., Defendants. Writ of Error. Filed Oct. 30, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [192]

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### Return to Writ of Error

The Answer of the Judges of the District Court of the United States of America, for the Northern District of California, to the within Writ of Error.

As within we are commanded, we certify under the seal of our said District Court, in a certain schedule

to this Writ annexed, the record and all proceedings of the plaint whereof mention is within made, with all things touching the same, to the United States Circuit Court of Appeals, for the Ninth Circuit, within mentioned, at the day and place within contained.

We further certify that a copy of this Writ was on the 23d day of November, A. D. 1915, duly lodged in the case in this court for the within-named defendants in error.

By the Court:

[Seal] W. B. MALING,  
Clerk United States District Court, Northern District of California.

By C. W. Calbreath,  
Deputy Clerk.

C. M. T.

[Ten Cent Internal Revenue Stamp. Canceled  
11/29/15. C. W. C.] [193]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 5750.

THE UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BLAIR-MURDOCK COMPANY (a Corporation),  
RALPH K. BLAIR, THOMAS ADDIS,  
HARRY G. LANE, KENNETH CROFT,  
C. D. LAWRENCE,

Defendants.

**Citation on Writ of Error.**

United States of America,

Northern District of California,—ss.

To the United States of America, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden in the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of error duly issued and now on file in the clerk's office of the United States District Court for the Northern District of California, wherein Ralph K. Blair and Thomas Addis are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, and each of them, as in the said writ of error mentioned, [194] should not be reversed, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, Judge of the United States District Court, for the Northern District of California, this 30th day of October, A. D. 1915.

M. T. DOOLING,

United States District Judge.

Service of the foregoing citation, and receipt of a copy thereof, are hereby admitted this — day of —, A. D. 1915.

UNITED STATES OF AMERICA.

By JNO. W. PRESTON,

United States Attorney for the Northern District of California, at San Francisco. [195]

[Endorsed]: No. 5750. In the District Court of the United States, in and for the Northern District of California, First Division. The United States of America, Plaintiff, vs. Blair-Murdock Company (a Corporation) et al., Defendants. Citation on Writ of Error. Filed Oct. 30, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

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[Endorsed]: No 2688. United States Circuit Court of Appeals for the Ninth Circuit. Ralph K. Blair and Thomas Addis, Plaintiffs in Error, vs. The United States of America, Defendant in Error. Transcript of Record Upon Writ of Error to the United States District Court of the Northern District of California, First Division.

Filed November 29, 1915.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.